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U. S. IMMIGRATION
EXCLUSION AND DEPORTATION

BY
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WASHINGTON

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PREFACE

The problem of the United States government toward the alien is to admit only such as are desirable for permanent residence and to rid the country of those who remain here unlawfully; to assist and encourage about 7,000,000 alien residents, who were making little or no effort to become citizens, to assimilate as rapidly as possible.

A nation may be transformed by a constant flow of aliens who remain distinct and, leading an autonomous and communal life, cannot fuse with the original inhabitants. Examples of such transformation are furnished by the invasion of the Danes and Norsemen into England during the eighth century and the way the Romans Romanized Gaul and Spain and how the Roman empire was gradually undermined by Teutonic invasions. However, where there is a migration of a certain though perhaps small number of persons of a vigorous and masterful race into a territory inhabited by another race of different extractions, but with a strong force of character and high civilization, the fusion of such peoples tends to bring out the force and character and the fertility of intellect that create and perpetuate a leading nation.

After continuous and laborious efforts for more than a score of years Congress has finally embarked upon a policy of restriction in order that only those who would make desirable additions to our population should be permitted to enter.

The purpose of this handbook is to treat the subjects of immigration, exclusion and deportation, from a new angle. An effort has been made here to give a concise and succinct statement of the facts involved and the decision of the court in all important cases on these subjects. All immigration laws and executive orders at present in force are included.

The history of immigration legislation has been added

to show the tendency and progress of our immigration laws. The outline of the world's history of the migrations of peoples has been given to show how such migrations affected civilizations in the past, and how the wanderings of peoples brought about the mixture of races and the creation of new and absorption of old races.

SIDNEY KANSAS.

Washington, D. C.

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FOREWORD

The present interest in immigration legislation, shown by the people of the United States, is extraordinary.

No greater duty—nor one more vital to the perpetuation of our institutions—lies before the present generation than that of devising methods whereby the United States government, as planned by the founders, will survive overpopulation.

Washington, in his inaugural address, expressed these convictions when he said:

"The preservation of the sacred fire of liberty and the destiny of the republican model of government are justly considered as deeply, perhaps as finally, staked on the experiment entrusted to the hands of the American people."

It is this trust that Congress is endeavoring to safeguard by enacting proper legislation to regulate the inflow of aliens and control them after their entry.

The author of this volume has clearly set forth the seriousness of the situation.

It has become apparent that with full knowledge of the facts the people of the United States have approved, and will approve, the acts of their representatives in Congress for the further restriction of immigration.

ALBERT JOHNSON,
Chairman of the House Committee
on Immigration and Naturalization.

Washington, D. C.
February 22, 1927.

U. S. IMMIGRATION EXCLUSION AND DEPORTATION

PART 1

HISTORY OF IMMIGRATION LEGISLATION

"To preserve its independence, and give security against foreign aggression and encroachment, is the highest duty of every nation; and to obtain these ends nearly all other considerations are to be subordinated. It matters not in what form such aggression and encroachment come, whether from the foreign nation acting in its national character (as in time of war) or from vast hordes of its people crowding in upon us." (The Chinese Exclusion Case, 130 U. S. 606.)

"The right of a nation to expel or deport foreigners who have not been naturalized or taken any steps towards becoming citizens of the country, rests upon the same grounds as the power of the government to exclude foreigners from the country whenever in its judgment, the public interests require such exclusion." (Fong Yue Ting *v.* United States, 149 U. S. 707.)

"It is an accepted maxim of International Law, that every sovereign nation has the power as inherent in sovereignty, and essential to self-preservation, to forbid the entrance of foreigners within its dominions, or to admit them only in such cases and upon such conditions as it may see fit to prescribe. In the United States, this power is vested in the national government, to which the Constitution has committed the entire control of international relations, in peace as well as in war. It belongs to the political department of the government and may be exercised either through treaties made by the President and Senate or

through statutes enacted by Congress." (Nishimura Ekiu *v.* United States, 142 U. S. 651.)

In 1798, Congress passed a law entitled "An Act to Establish A Uniform Rule of Naturalization, and to Repeal the Act Heretofore Passed on That Subject."

Section 4 of this act contained a provision, "That all white persons aliens (accredited foreign ministers, consuls, or agents, their families, and domestics excepted), who, after the passing of this act, shall continue to reside, or who shall arrive, or come to reside in any port or place within the territory of the United States, shall be reported, if free, and of the age of twenty-one, or being under the age of twenty-one years, by their parents, guardians, master or mistress in whose care they shall be, to the Clerk of the District Court . . . within forty-eight hours after the first arrival or coming into the territory of the United States, and he shall ascertain the sex, place of birth, age, nation, place of allegiance or citizenship, condition or occupation, and place of actual or intended residence within the United States of the alien or aliens, reported, and by whom the report was made."

A penalty was imposed on all such aliens refusing or neglecting to make this report.

In 1819, Congress passed a law regulating passenger ships and vessels and provided that if the master or owner of any ship or vessel who shall bring or convey into the United States or territories thereof, from any foreign port or place, a greater number of passengers than two for every five tons of such ship or vessel, according to Custom House measurement, every such master or owner shall severally forfeit and pay to the United States the sum of One Hundred and Fifty Dollars for each and every passenger so taken; these fines were to be recovered by suit in any circuit or district court of the United States where the said vessel might arrive or where the master or owner resided. The usual complement of men necessary to man the ship were excepted.

This act further provided that the captain or master of any ship or vessel arriving in the United States, or any of the territories thereof, from any foreign place whatever,

at the time of entry shall deliver and report to the collector of the district in which such ship or vessel shall arrive, a list or manifest of all the passengers taken on board of said ship or vessel at any foreign port or place. This list designated the age, sex, and occupation of the passengers, the country to which they belong and where they intend to become inhabitants. For neglect in this report, the captain, master, or owner was subject to a penalty.

In 1847 and 1848, laws were passed regulating the ventilation of the steerage bunks and providing for proper food to be furnished to the steerage passengers. Regulations were also made for limiting the number of passengers to be carried by a ship or vessel according to the amount of clear superficial feet of deck, and depending on whether such ship or vessel passed within the tropics during the voyage.

In 1855, further legislation was enacted providing for sanitation and ventilation of passenger ships and vessels. And it was further enacted that each and every Collector of the Customs to whom a list of the passengers was delivered by the captain or master of the boat, must return such lists every three months to the Secretary of State and by him laid before Congress at each and every session.

The Collector of the Customs was also required to examine each immigrant ship or vessel on its arrival at his port, and ascertain and report to the Secretary of the Treasury the time of sailing, the length of the voyage, the ventilation, the number of passengers, their space on board, their food, the native country of the immigrants, the number of deaths during the voyage, together with his opinion of the cause of the mortality.

This act of 1855 repealed the former acts of 1819, 1847, 1848, and it further enacted that the penalties imposed for violating the provision of this act shall be liens on such vessel or vessels and recovery had in any circuit or district court of the United States where such vessel or vessels shall arrive.

In 1864, an act to encourage immigration was passed, and a Commissioner of Immigration appointed, who was to be subject to the direction of the Department of State, and

shall hold office for four years. Such Commissioner was allowed three clerks, of the grade as the Secretary of State shall designate. The said Commissioner was to establish regulations whereby immigrants shall pledge the wages of their labor after their admission to this country, for a period not to exceed twelve months, such pledge to be given was to repay the expenses of their emigration.

The law further provided that all such contracts made by the immigrants to the United States, in foreign countries, in conformity to the regulation established by the Commissioner, shall be held to be valid in law, and may be enforced in the courts of the United States, or of the several states and territories.

It was further provided in this act that no immigrant shall be compelled to enter the military service during the Civil War, unless such immigrant voluntarily renounces under oath his allegiance to the country of his birth and declares his intention to become a citizen of the United States.

A United States Immigrant Office was established with a Superintendent of Immigration and one clerk. This superintendent was under the direction of the Commissioner of Immigration.

The superintendent was empowered to make contracts with the different railroads and other transportation companies of the United States for transportation tickets to be furnished to such immigrants and to be paid by them.

It was the duty of the Commissioner of Immigration to submit a detailed report of the foreign immigration during the preceding year, to the Congress at the commencement of each annual meeting. The sum of $25,000 was appropriated for the purpose of carrying the provision of this act into effect.

In 1868, the law of 1864 was repealed.

In the meantime, a number of the states had begun to pass laws restricting immigration, notably, New York, Massachusetts, California and Louisiana. But their laws differed one from each other. Each state had its own peculiar notion as to who should be excluded. The problem soon became too big for the individual states to handle.

On March 20, 1876, the Supreme Court of the United States handed down a decision holding that the subject of Immigration has been confided to Congress by the Constitution and that Congress can more appropriately deal with this subject, and that by providing a uniform system of laws, applicable to all ports and to all vessels, a serious question may be effectively and satisfactorily settled. (Henderson v. Mayor of N. Y., 92 U. S. 259.) The passage of laws which concerned the admission of citizens and subjects of foreign nations to our shores belongs to Congress and not to the States. (Chy Lung *v.* Freeman et al., 92 U. S. 280.)

Since then, Congress has passed a number of immigration bills, and each of them in succession has been more stringent and restrictive than the preceding ones.

In 1875, a law was passed prohibiting the entrance into this country of persons who have been convicted of a felony in their own country, other than political, and who were still under such sentence upon arrival here. This law also provided that it shall be unlawful for alien women to immigrate into the United States who were imported for the purpose of prostitution.

By the decision of the Supreme Court of the United States in 1876, as before noted, all laws on immigration were now entrusted to Congress.

The period that marked the first real control of immigration was in 1882. First this act provided that every immigrant who enters into any port within the United States must pay a duty of fifty cents. Part of these funds so collected was to be used for the care of the immigrants upon their arrival, and for the relief of such as are in distress. The Secretary of the Treasury was charged with the supervision of immigration to the United States, and for that purpose he was given the power to enter into a contract with the authorities of any state to take charge of the local affairs of immigration in the ports within the said states, and to provide for the support and relief of such immigrants as may fall into distress or need public aid, under the rules and regulations to be prescribed by said Secretary.

All foreign convicts, except those convicted of political offenses, upon arrival shall be sent back to where they came from, and the expense of such return shall be borne by the owner of the ships in which they came. The coming of Chinese laborers to the United States was suspended for the period of ten years from the passage of this act. In 1892, the period of suspension was extended for another ten years. This excluded all Chinese with but very few exceptions. The Chinese exclusion laws were re-enacted, extended, and continued without modification, limitation, or condition in 1904.

The laws of 1885 provided that all contracts or agreements made after the enactment of this law, by or between any person, company or partnership, or corporation, and any foreigner or alien to perform labor or service in the United States shall be void and of no effect.

To further strengthen the laws prohibiting importation of laborers under contract, a law was enacted in 1887. It was made the duty of the state authorities under contract with the Secretary of the Treasury, to examine into the conditions of passengers arriving at the ports within such states in any ship or vessel, and if any aliens were found in violation of this law, they shall be sent back to the nations to which they belong and from which they came. The expense of such return shall be borne by the owner of the ship or vessel in which the aliens came. This law, as amended in 1888, gave the Secretary of the Treasury authority to deport within one year from arrival, any alien who has come to this country in violation of this Contract Labor Law.

The laws on immigration were now being formed into more restrictive measures and in 1891, in addition to the exclusion of Chinese, the following were also excluded from admission into the United States:

All idiots, insane persons, paupers or persons likely to become a public charge, persons suffering from a loathsome or a dangerous disease, persons who have been convicted of a felony or other infamous crime, other than political, or misdemeanor involving moral turpitude, polygamists, or any alien who was encouraged to migrate by promise of

employment through advertisement, printed and published in any foreign country.

The steamship and transportation companies were prohibited to solicit, invite, or encourage the immigration of any alien into the United States except by ordinary commercial methods, such as letters, circulars, and advertisements stating the sailing of vessels, terms, and facilities of transportation therein.

Under the law, the office of Superintendent of Immigration was created, who shall be under the control and supervision of the Secretary of the Treasury, to whom he shall make annual reports.

This law of 1891 was more comprehensive than any previous legislation on immigration. It provided that upon the arrival of any alien immigrants the commanding officer or agent of the ship or vessel on which they came shall report the name, nationality, last residence, and destination of every such alien before any of them are landed, to the proper inspection officers, who then sent competent assistants on board to inspect such aliens, or the inspection officers may order a temporary removal of such aliens for a more thorough inspection at a designated place and time.

The medical examination shall be made by the surgeons of the Marine Hospital Service. The inspection officers and assistants were clothed with power to administer oaths and take testimony of such alien as to his right to enter into the United States.

The Secretary of the Treasury may prescribe rules for the inspection of aliens along the borders of Canada and Mexico.

All aliens who unlawfully came to the United States shall be immediately sent back on the vessel or ship that brought them, the cost to be borne by the owner of the ship.

Any alien who succeeded in entering into the United States in violation of the law, may be deported at any time within one year thereafter. Any alien who becomes a public charge within one year after his arrival from causes existing prior to his landing, shall be deemed to have come in violation of law and shall be deported.

The circuit and district courts of the United States were

invested with jurisdiction of all causes arising under any of the provisions of this act.

In 1893, the Chinese Exclusion Act was amended, whereby it was made compulsory for every Chinese laborer within the United States to obtain a certificate of residence within six months after the passage of the act. For failure to obtain this certificate, he was liable to arrest and deportation, after a hearing before a United States judge.

In 1897, an act to amend the Immigration Law of the United States by establishing an educational test, passed both houses of Congress, but was vetoed by President Cleveland. The general scheme of this act was to exclude all immigrants physically capable and over sixteen years of age, who cannot read and write the English language or some other language; and requiring them to read and to write not less than twenty, or more than twenty-five, words of the Constitution of the United States, in some language; and that any immigrant failing in this, shall not be admitted but shall be returned to the steamship or railroad company which brought him.

In stating his reasons for not approving this bill, the President was of the opinion that by limiting immigration to those who can read and write in any language twenty-five words of our Constitution, would not protect our country against degeneration from imported turbulence and disorder, and that it was far more safe to admit a hundred thousand immigrants who, though unable to read and write, are coming to our shores to establish a home and seeking an opportunity to work, than to admit one of those unruly agitators and enemies of government control, who cannot only read and write, but delights in arousing the illiterate and peacefully inclined to discontent and tumult.

The laws of 1903 marked a new era for the control of immigration. An Immigrant Fund was established under this law for the purpose of defraying the expense and regulating the immigration of aliens into the United States, under this act. The monies for this fund were obtained by the levy of a duty of two dollars for each and every alien entering into the United States. This law provides that

the following classes of aliens shall be excluded from admission into the United States:

All idiots, insane persons, epileptics, and persons who have been insane within five years previous; persons who have had two or more attacks of insanity at any time previously; paupers, persons likely to become public charges, professional beggars, persons afflicted with a dangerous, contagious disease; persons who have been convicted of a felony or other crime or misdemeanor involving moral turpitude; polygamists, anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States or of all government or of all forms of law, or the assassination of public officials; prostitutes and persons who procure or attempt to bring in prostitutes or women for the purpose of prostitution; persons who have in any way been encouraged, or assisted to migrate to the United States to perform labor or service of any kind under contract made previous to the importation of such alien; persons convicted of an offense purely political not involving moral turpitude, shall not be excluded on that ground alone.

The steamship companies were prohibited from soliciting immigration directly or through agents or to encourage the immigration of any aliens into the United States, except by ordinary commercial letters, circulars, advertisement, or oral representations, stating the sailings, terms, and transportation details.

If an alien is rejected by a medical officer for having a loathsome or dangerous, contagious disease, or is afflicted with any mental or physical disability, then a decision of the Board of Special Inquiry, based on the certificate of such medical officer, is final as to the rejection of such alien.

Upon the arrival of the aliens, the commanding officer of the steamer must deliver to the immigration officers at the port of arrival, a list of all alien passengers made at the time and place of embarkation.

Such lists must show the full name of each alien, the age and sex; whether married or single, occupation or calling; whether able to read or write; the nationality, race,

last residence, and final destination beyond port of landing; whether he paid his own passage, if not, who paid it; whether he is in possession of fifty dollars, and if less, how much; whether going to join a relative or friend and if so, what is that relative or friend's complete name and address; whether ever before in the United States, and if so, when and where; whether ever in prison or poorhouse or insane asylum; whether a polygamist or anarchist.

Upon the receipt of such list by the immigration officers, it was their duty to go or send assistants to the ship or vessel for the examination of each alien. The physical and mental examination shall be made by officers of the United States Marine Hospital Service.

All aliens brought into this country in violation of law shall be immediately sent back on the ship that brought them, if practicable, and all expenses of the aliens to be borne by the steamship owners.

Any alien who has entered the United States and is found to be a public charge from causes existing prior to his landing, shall be deported to the country whence he came within two years after his arrival; and any alien who has been found in the United States in violation of this act, shall be deported, any time within three years after his landing or entry therein. Such deportations shall be at the expense of the person bringing such alien into the United States, or if that cannot be done, then, at the expense of the Immigration Fund.

Upon arrival of the alien, if the examining Immigrant Inspector has any doubt whatever as to whether the alien is entitled to land, such alien shall be detained for examination by a Board of Special Inquiry consisting of three members. All hearings before such boards shall be private, and the decision of any two members of a board shall prevail. The alien then has the right to appeal from the decision. All acts and parts of acts inconsistent with this act are repealed; but this does not repeal, alter, or amend existing laws relating to immigration, or exclusion of Chinese persons or persons of Chinese descent.

In 1904, the act of 1903 was amended to exempt from a

head tax all aliens coming into the United States from Canada, Newfoundland, Cuba, and Mexico.

The Bureau of Immigration and Naturalization was created in 1906 under the direction and control of the Secretary of Commerce and Labor. In addition to the duties provided by the immigration laws, this Bureau shall have charge of all matters concerning the naturalization of aliens.

From and after the passage of this act, all immigration stations throughout the United States must make a registry in the case of each alien arriving in the United States, containing the name, age, and occupation, personal description (including height, complexion, color of hair and eyes), the place of birth, the last residence, the intended place of residence in the United States, the date of arrival of said alien, and, if entered through a port, the name of the vessel in which he came. The alien then was granted a certificate of such registry.

We now come to the most comprehensive and far-reaching law enacted thus far to regulate the immigration of aliens into the United States. It is really a revision of the existing laws augmented by numerous additions. This law was approved February 20, 1907. It provides for a tax of four dollars to be paid for every alien entering into the United States. This money goes into the Immigrant Fund. Aliens entering into the United States from Canada, Newfoundland, Cuba, and Mexico, and who resided there continuously for one year immediately preceding such entrance, shall be exempted from such tax. Transitory aliens were also exempted. Aliens detrimental to labor conditions were excluded, as were also all children under sixteen years of age, unaccompanied by one or both of their parents, under regulations prescribed by the Secretary of Commerce and Labor.

The provisions of the law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized, learned profession, or persons employed strictly as personal or domestic servants. All other per-

sons who have been induced or solicited to migrate to this country by offers or promises of employment or in consequence of any agreement to perform labor in this country of any kind, were excluded.

Any alien woman or girl who is found to be a prostitute at any time within three years, shall be deported. Any alien liable to be excluded because likely to become a public charge, if otherwise admissible, may be admitted in the discretion of the Secretary of Commerce and Labor, upon giving of a satisfactory bond, containing such conditions and amount as he may prescribe. Whenever an alien decides to reside in this country permanently, and shall have filed his declaration of intention to become a citizen, and thereafter shall send for his wife or minor children to join him, if said wife and minor children shall be found to be affected with a contagious disease, such wife or minor children shall be held until it shall be determined whether the disease will be easily curable or whether they can be permitted to land without danger to other persons; if the disease shall be found to be easily cured, they shall be admitted if otherwise admissible.

Further provision was made regulating the compartments, spaces, and accommodations on all steamships bringing passengers into the United States. All acts and parts of acts inconsistent with this act are hereby repealed.

In 1910, the act of 1907 was amended so as to provide a wider latitude for excluding aliens such as idiots, insane, paupers, diseased persons, criminals, polygamists, anarchists, prostitutes, contract laborers, assisted immigrants and children unaccompanied. Exceptions were provided for political offenders, aliens in transit, skilled laborers, professionals, and servants. Provision was also made for deporting aliens who became inmates of houses of prostitution or those who shared in the management of such houses or derived any earnings therefrom. The amendment also provided that if any alien who has been debarred or deported in pursuance of the provisions of this section attempts thereafter to return to or enter the United States, shall be deemed guilty of a misdemeanor and shall be imprisoned for not more than two years. At the expiration

of the sentence he shall be deported to the country whence he came or of which he is a subject or citizen.

In 1913, an act providing for a literacy or reading and writing test, was again passed by both houses of Congress but was vetoed by President Taft. The Senate passed the bill over the President's veto, but in the House the bill failed by four votes of the necessary two-thirds, to pass over the veto of the President. This bill contained the reading and writing tests for immigrants as recommended by the Federal Immigration Commission.

This Commission was created in 1906, and consisted of nine members, eight of whom recommended the adoption of the literacy test as the most practical means for restricting, limiting, and better regulating immigration. The report made by this Commission required four years of exhaustive inquiry at a cost of nearly one million dollars, and covering forty-two volumes. The Commission recommended a number of restrictive measures which were endorsed by the Farmer and Labor Unions.

A bill containing the literacy test for immigrants was again introduced in 1915 and succeeded in again passing both houses of Congress. President Wilson also vetoed this bill, maintaining that it would exclude those to whom the opportunities of elementary education has been denied without regard to their character, purposes, or natural capacity; that these are not tests of character or personal fitness, but tests of opportunities in the countries from whence the immigrants came. On reconsideration to pass this bill over the President's veto, the House failed to obtain the necessary two-thirds vote. The vote was yeas 261, nays 136, not voting 24, and two answered "Present."

This bill, now amended, was reintroduced in 1916 and again passed the House and the Senate, and was vetoed by President Wilson, a second time. In February, 1917, the House reconsidered this bill and after a heated debate, a vote was taken which resulted 287 in favor of passing the bill over the President's veto and 106 against doing so, while thirty-seven did not vote and three answered, "Present." So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President of the

United States to the contrary notwithstanding. The bill then proceeded to the Senate. This body voted sixty-two in favor of overriding the President's veto and passing the bill, while nineteen voted against it. Thus attaining the necessary two-thirds vote, the bill became a law without the approval of the President of the United States.

A provision of this bill excluded all aliens over sixteen years of age, physically capable of reading, who cannot read the English language or some other language or dialect, including Hebrew or Yiddish. Besides the literacy test, this bill contained a number of other provisions regulating immigration.

The act of 1917 may be considered as the corpus of our immigration laws, as it embodies all the previous laws on immigration. It is the basic law and the one referred to when reference is made to the United States Immigration Act.

During the year 1918, the provisions of the law relating to the literacy test, contract labor, and the head tax were suspended in order to admit unskilled laborers from Canada, Mexico, and the West Indies; and all other aliens who entered the war and were sent to Europe and elsewhere, may be readmitted within one year, after the termination of the war, being exempt from ordinary restriction of the immigration laws.

In this year, also, a law was passed to exclude and expel from the United States aliens who are members of the anarchistic and similar classes, who believe in or advocate the overthrow, by force or violence, of the government of the United States or of all forms of law.

In 1919, a bill introduced in the House and having the official support of the American Federation of Labor, provided for the suspension of immigration for four years. This failed to pass.

Further attempts were made in 1920 to pass a law suspending immigration for two years, or to limit the admission of aliens to a percentage of the number of each nationality already residing in this country. But no such legislation was enacted.

In June, 1920, the act of 1918 was amended to exclude

and expel all aliens who write, publish, or cause to be written or published, or who distribute, print, or cause to circulate, any written or printed matter advising, advocating, or teaching opposition to all organized government, or the overthrow by force or violence of the government of the United States, or of all forms of law, or the unlawful damage, injury, or destruction of property or sabotage, or who are members of, or affiliated with, any organization or group that writes or circulates or causes to write or circulate or has in its possession any written or printed matter referred to above.

The first quota law was enacted in May, 1921, to take effect in June of that year and continued in force until June 30, 1922. This law limited the number of aliens who may be admitted under the immigration laws to the United States to three per centum of the number of foreign-born persons of the same nationality resident in the United States, based on the United States census of 1910.

A provision was made for a number of exceptions to whom this act did not apply, such as Government officials, their families, attendants, servants, and employees; alien tourists, or those visiting the United States for business or pleasure; also aliens who have resided continuously for at least one year immediately preceding their entry into the United States in Canada, Newfoundland, Cuba, Mexico, and countries of Central and South America.

For the purpose of this act, it was provided that in case of changes in political boundaries in foreign countries occurring subsequent to 1910, aliens born in the area included in any such new country, shall be considered as having been born in such country or territory.

This act was amended in May, 1922, providing that all aliens coming into the United States from Canada, Newfoundland, Cuba, Mexico, countries of Central and South America and adjacent islands, shall have resided in those countries at least five years immediately preceding the time of their application for admission into the United States. The act was further amended to make it unlawful for any steamship company to bring to the United States aliens not admissible under this act. The operation of the act of

1921, with the amendments of 1922, was extended to, and included June 30, 1924.

We now come to the latest act to limit the immigration of aliens into the United States and for other purposes. This act is cited as the Immigration Act of 1924. It deals mainly with the provisions affecting immigrants under the quota law.

This law now provides for an annual quota of two per centum of the number of foreign-born individuals of such nationality resident in continental United States as determined by the United States census of 1890, but the minimum quota of any nationality shall be 100.

It also provides for the control of immigration by the United States consular offices in foreign countries, by the strict regulation as to the number of emigration visas which may be issued by such consular offices.

Beginning July 1, 1927, and for each fiscal year thereafter, the annual quota of any nationality shall be a number which bears the same ratio to 150,000 as the number of inhabitants in continental United States in 1920 having that national origin bears to the number of inhabitants in continental United States in 1920, but the minimum quota of any nationality shall be 100. This provision may not take effect until July 1, 1928, on account of the difficulty of arriving at a definite basis for determining the national origins.

PART 2

IMMIGRATION LAWS

Regulating Immigration of Aliens to, and Residence of Aliens in, the United States

[Act of February 5, 1917.]

Section 1. That the word "alien" wherever used in this act shall include any person not a native-born or naturalized citizen of the United States; but this definition shall not be held to include Indians of the United States not taxed or citizens of the islands under the jurisdiction of the United States. That the term "United States" as used in the title as well as in the various sections of this act shall be construed to mean the United States, and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone; but if any alien shall leave the Canal Zone or any insular possession of the United States and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens. That the term "seaman" as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign port or place.

That this act shall be enforced in the Philippine Islands by officers of the general government thereof, unless and until it is superseded by an act passed by the Philippine Legislature and approved by the President of the United States to regulate immigration in the Philippine Islands as authorized in the act entitled "An act to declare the pur-

pose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands," approved August twenty-ninth, nineteen hundred and sixteen.

SEC. 2. That there shall be levied, collected, and paid a tax of $8 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States: *Provided,* That children under sixteen years of age who accompany their father or their mother shall not be subject to said tax. The said tax shall be paid to the collector of customs of the port or customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyance or vehicle or when collection from the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance, or vehicle bringing such alien to the United States is impracticable. The tax imposed by this section shall be a lien upon the vessel or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such vessel or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied on account of aliens who enter the United States after an uninterrupted residence of at least one year immediately preceding such entrance in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, for a temporary stay, nor on account of otherwise admissible residents or citizens of any possession of the United States, nor on account of aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory, and the Commissioner General of Immigration, with the approval of the Secretary of

Labor, shall issue rules and regulations and prescribe the conditions necessary to prevent abuse of these exceptions: *Provided,* That the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Labor, by agreement with transportation lines, as provided in section twenty-three of this act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission from foreign contiguous territory: *Provided further,* That said tax, when levied upon aliens entering the Philippine Islands, shall be paid into the treasury of said islands, to be expended for the benefit of such islands: *Provided further,* That in the cases of aliens applying for admission from foreign contiguous territory and rejected, the head tax collected shall upon application, upon a blank which shall be furnished and explained to him, be refunded to the alien.

SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons; persons who have had one or more attacks of insanity at any time previously; persons of constitutional psychopathetic inferiority; persons with chronic alcoholism; paupers; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who practice polygamy or believe in or advocate the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials, or who advocate or teach the unlawful destruction of property; persons who are members of or affiliated with any organization enter-

taining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, or who advocate or teach the unlawful destruction of property; prostitutes, or persons coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who directly or indirectly procure or attempt to procure or import prostitutes or persons for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons likely to become a public charge;[1] persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port or their attempt to be admitted from foreign contiguous territory the Secretary of Labor shall have consented to their reapplying for admission; persons whose tickets or passage is paid for with the money of another, or who are assisted by others to come, unless it is affirmatively and satisfactorily shown that such persons do not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign

[1] This clause excluding aliens on the ground likely to become a public charge has been shifted from its position in section 2 of the immigration act of 1907 to its present position in section 3 of this act in order to indicate the intention of Congress that aliens shall be excluded upon said ground for economic as well as other reasons and with a view to overcoming the decision of the Supreme Court in Gegiow v. Uhl, 239 U. S., 3 (Senate Rept. 352, 64th Cong., 1st sess.).

Government, either directly or indirectly; stowaways, except that any such stowaway, if otherwise admissible, may be admitted in the discretion of the Secretary of Labor; all children under sixteen years of age, unaccompanied by or not coming to one or both of their parents, except that any such children may, in the discretion of the Secretary of Labor, be admitted if in his opinion they are not likely to become a public charge and are otherwise eligible; unless otherwise provided for by existing treaties, persons who are natives of islands not possessed by the United States adjacent to the continent of Asia, situate south of the twentieth parallel latitude north, west of the one hundred and sixtieth meridian of longitude east from Greenwich, and north of the tenth parallel of latitude south, or who are natives of any country, province, or dependency situate on the continent of Asia west of the one hundred and tenth meridian of longitude east from Greenwich and east of the fiftieth meridian of longitude east from Greenwich and south of the fiftieth parallel of latitude north, except that portion of said territory situate between the fiftieth and the sixty-fourth meridians of longitude east from Greenwich and the twenty-fourth and thirty-eighth parallels of latitude north, and no alien now in any way excluded from, or prevented from entering, the United States shall be admitted to the United States. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, civil engineers, teachers, students, authors, artists, merchants, and travelers for curiosity or pleasure, nor to their legal wives or their children under sixteen years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section nineteen of this act.

That after three months from the passage of this act, in addition to the aliens who are by law now excluded from

admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

All aliens over sixteen years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish: *Provided,* That any admissible alien, or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over fifty-five years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relative shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips of uniform size, prepared under the direction of the Secretary of Labor, each containing not less than thirty nor more than forty words in ordinary use, printed in plainly legible type in some one of the various languages or dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Labor that they are seeking admission to the United States to avoid religious persecution in the country of their last permanent residence, whether such persecution be evidenced by overt acts or by laws or governmental regulations that discriminate against the alien or the race to which he belongs because of his religious faith; all aliens who have been lawfully admitted to the United States and who have resided therein continuously for five years and who return to the United States within six months from the date of their departure therefrom; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided,* That nothing in this act shall exclude, if otherwise admissible, per-

sons convicted, or who admit the commission, or who teach or advocate the commission, of an offense purely political: *Provided further,* That the provisions of this act, relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign Government, shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further,* That skilled labor if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Labor to be reached after a full hearing and an investigation into the facts of the case: *Provided further,* That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, nurses, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed as domestic servants: *Provided further,* That whenever the President shall be satisfied that passports issued by any foreign Government to its citizens or subjects to go to any country other than the United States, or to any insular possession of the United States or to the Canal Zone, are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possession or from the Canal Zone: *Provided further,* That aliens returning after a temporary absence to an unrelinquished United States domicile of seven consecutive years may be admitted in the discretion of the Secretary of Labor, and under such conditions as he may prescribe: *Provided further,* That nothing in the contract-labor or reading-test provisions of this act shall be con-

strued to prevent, hinder, or restrict any alien exhibitor, or holder of concession or privilege for any fair or exposition authorized by act of Congress, from bringing into the United States, under contract, such otherwise admissible alien mechanics, artisans, agents, or other employees, natives of his country as may be necessary for installing or conducting his exhibit or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith, under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Labor, may prescribe both as to the admission and return of such persons: *Provided further,* That the Commissioner General of Immigration with the approval of the Secretary of Labor shall issue rules and prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of otherwise inadmissible aliens applying for temporary admission: *Provided further,* That nothing in this act shall be construed to apply to accredited officials of foreign Governments, nor to their suites, families, or guests.

SEC 4. That the importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall in every such case be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment for a term of not more than ten years and by a fine of not more than $5,000. Jurisdiction for the trial and punishment of the felonies hereinbefore set forth shall be in any district to or into which said alien is brought in pursuance of said importation by the person or persons accused, or

in any district in which a violation of any of the foregoing provisions of this section occurs. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this act which relate to prostitutes, procurers, or other like immoral persons, attempt thereafter to return to or to enter the United States shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than two years. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against each other.

SEC. 5. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to induce, assist, encourage, or solicit, or attempt to induce, assist, encourage, or solicit the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the fifth proviso of section three of this act, or have been imported with the permission of the Secretary of Labor in accordance with the fourth proviso of said section, and for every violation of any of the provisions of this section the person, partnership, company, or corporation violating the same shall forfeit and pay for every such offense the sum of $1,000, which may be sued for and recovered by the United States as debts of like amount are now recovered in the courts of the United States. For every violation of the provisions hereof the person violating the same may be prosecuted in a criminal action for a misdemeanor, and on conviction thereof shall be punished by a fine of $1,000, or by imprisonment for a term of not less than six months nor more than two years; and under either the civil or the criminal procedure mentioned separate suits or prosecutions may be brought for each alien thus offered or promised employment as aforesaid. The Department of Justice, with the approval of the Department of Labor, may from any fines or penalties received pay rewards to persons other than Government employees who may furnish information leading to the recovery of any such penalties, or

to the arrest and punishment of any person, as in this section provided.

SEC. 6. That it shall be unlawful and be deemed a violation of section five of this act to induce, assist, encourage, or solicit or attempt to induce, assist, encourage, or solicit any alien to come into the United States by promise of employment through advertisements printed, published, or distributed in any foreign country, whether such promise is true or false, and either the civil or criminal penalty or both imposed by said section shall be applicable to such a case.

SEC. 7. That it shall be unlawful for any person, association, society, company, partnership, corporation, or others engaged in the business of transporting aliens to or within the United States, including owners, masters, officers, and agents of vessels, directly or indirectly, by writing, printing, oral representation, payment of any commissions to an alien coming into the United States, allowance of any rebates to an alien coming into the United States, or otherwise to solicit, invite, or encourage or attempt to solicit, invite, or encourage any alien to come into the United States, and anyone violating any provision hereof shall be subject to either the civil or the criminal prosecution, or both, prescribed by section five of this act; or if it shall appear to the satisfaction of the Secretary of Labor that any owner, master, officer, or agent of a vessel has brought or caused to be brought to a port of the United States any alien so solicited, invited, or encouraged to come by such owner, master, officer, or agent, such owner, master, officer, or agent shall pay to the collector of customs of the customs district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $400 for each and every such violation; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while the fine imposed remains unpaid, nor shall such fine be remitted or refunded: *Provided,* That clearance may be granted prior to the determination of such questions upon the deposit with the collector of customs of a sum sufficient to cover such fine: *Provided further,* That whenever it shall

be shown to the satisfaction of the Secretary of Labor that the provisions of this section are persistently violated by or on behalf of any transportation company, it shall be the duty of said Secretary to deny to such company the privilege of landing alien immigrant passengers of any or all classes at United States ports for such a period as in his judgment may be necessary to insure an observance of such provisions: *Provided further,* That this section shall not be held to prevent transportation companies from issuing letters, circulars, or advertisements, confined strictly to stating the sailing of their vessels and terms and facilities of transportation therein: *Provided further,* That under sections five, six, and seven hereof it shall be presumed from the fact that any person, company, partnership, corporation, association, or society induces, assists, encourages, solicits, or invites, or attempts to induce, assist, encourage, solicit, or invite the importation, migration, or coming of an alien from a country foreign to the United States, that the offender had knowledge of such person's alienage.

SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, or shall conceal or harbor, or attempt to conceal or harbor, or assist or abet another to conceal or harbor in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter or to reside within the United States under the terms of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $2,000 and by imprisonment for a term not exceeding five years, for each and every alien so landed or brought in or attempted to be landed or brought in.

SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any

vessel to bring to the United States either from a foreign country or any insular possession of the United States any alien afflicted with idiocy, insanity, imbecility, feeble-mindedness, epilepsy, constitutional psychopathic inferiority, chronic alcoholism, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Labor than any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200, and in addition a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, for each and every violation of the provisions of this section, such latter sum to be delivered by the collector of customs to the alien on whose account assessed. It shall also be unlawful for any such person to bring to any port of the United States any alien afflicted with any mental defect other than those above specifically named, or physical defect of a nature which may affect his ability to earn a living, as contemplated in section three of this act, and if it shall appear to the satisfaction of the Secretary of Labor that any alien so brought to the United States was so afflicted at the time of foreign embarkation, and that the existence of such mental or physical defect might have been detected by means of a competent medical examination at such time, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25, and in addition a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, for each and every violation of this provision, such latter sum to be delivered by the collector of customs to the alien for whose account assessed. It shall also be unlawful for any such person to bring to any port of the United States any alien who is

excluded by the provisions of section three of this act because unable to read, or who is excluded by the terms of section three of this act as a native of that portion of the continent of Asia and the islands adjacent thereto described in said section, and if it shall appear to the satisfaction of the Secretary of Labor that these disabilities might have been detected by the exercise of reasonable precaution prior to the departure of such aliens from a foreign port, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200, and in addition a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, for each and every violation of this provision, such latter sum to be delivered by the collector of customs to the alien on whose account assessed. And no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fines, or while the fines remain unpaid, nor shall such fines be remitted or refunded: *Provided,* That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fines: *Provided further,* That nothing contained in this section shall be construed to subject transportation companies to a fine for bringing to ports of the United States aliens who are by any of the provisos or exceptions to section three hereof exempted from the excluding provisions of said section.

SEC. 10. That it shall be the duty of every person, including owners, officers, and agents of vessels of transportation lines, or international bridges or toll roads, other than railway lines which may enter into a contract as provided in section twenty-three of this act, bringing an alien to, or providing a means for an alien to come to, any seaport or land border port of the United States, to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers, and the failure of any such person, owner, officer, or agent to comply with the foregoing requirements shall be deemed a misdemeanor and on conviction thereof shall be punished by a fine in each case of not less than $200 nor

more than $1,000, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; or, if in the opinion of the Secretary of Labor it is impracticable or inconvenient to prosecute the person, owner, master, officer, or agent of any such vessel, a penalty of $1,000 shall be a lien upon the vessel whose owner, master, officer, or agent violates the provisions of this section, and such vessel shall be libeled therefor in the appropriate United States court.

SEC. 11. That for the purpose of determining whether aliens arriving at ports of the United States belong to any of the classes excluded by this act, either by reason of being afflicted with any of the diseases or mental or physical defects or disabilities mentioned in section three hereof, or otherwise, or whenever the Secretary of Labor has received information showing that any aliens are coming from a country or have embarked at a place where any of said diseases are prevalent or epidemic, the Commissioner General of Immigration, with the approval of the Secretary of Labor, may direct that such aliens shall be detained on board the vessel bringing them, or in a United States immigration station at the expense of such vessel, as circumstances may require or justify, a sufficient time to enable, the immigration officers and medical officers stationed at such ports to subject aliens to an observation and examination sufficient to determine whether or not they belong to the said excluded classes by reason of being afflicted in the manner indicated: *Provided,* That with a view to avoid undue delay in landing passengers or interference with commerce, the Commissioner General of Immigration may, with the approval of the Secretary of Labor, issue such regulations not consistent with law, as may be deemed necessary to effect the purposes of this section: *Provided further,* That it shall be the duty of immigrant inspectors to report to the Commissioner General of Immigration the condition of all vessels bringing aliens to United States ports.

SEC. 11a. That the Secretary of Labor is hereby authorized and directed to enter into negotiations, through the Department of State, with countries vessels of which bring

aliens to the United States, with a view to detailing inspectors and matrons of the United States Immigration Service for duty on vessels carrying immigrant or emigrant passengers between foreign ports and ports of the United States. When such inspectors and matrons are detailed for said duty they shall remain in that part of the vessel where immigrant passengers are carried; and it shall be their duty to observe such passengers during the voyage and report to the immigration authorities in charge at the port of landing any information of value in determining the admissibility of such passengers that may have become known to them during the voyage.

SEC. 12. That upon the arrival of any alien by water at any port within the United States on the North American Continent from a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or at any port of the said insular possessions from any foreign port, from a port in the United States on the North American Continent, or from a port of another insular possession of the United States, it shall be the duty of the master or commanding officer, owners, or consignees of the steamer, sailing, or other vessel having said alien on board to deliver to the immigration officers at the port of arrival typewritten or printed lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, contain full and accurate information as to each alien as follows: Full name, age, and sex; whether married or single; calling or occupation; personal description (including height, complexion, color of hair and eyes, and marks of identification); whether able to read or write; nationality; country of birth; race; country of last permanent residence; name and address of the nearest relative in the country from which the alien came; seaport for landing in the United States; final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; by whom passage was paid; whether in possession of $50, and if less, how much; whether going to join a relative or friend, and, if so, what relative or friend, and his or her name and complete address; whether ever before

in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane; whether ever supported by charity; whether a polygamist; whether an anarchist; whether a person who believes in or advocates the overthrow by force or violence of the Government of the United States or of all forms of law, or who disbelieves in or is opposed to organized government, or who advocates the assassination of public officials, or who advocates or teaches the unlawful destruction of property, or is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or which teaches the unlawful destruction of property, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government because of his or their official character; whether coming by reason of any offer, solicitation, promise, or agreement, express or implied, to perform labor in the United States; the alien's condition of health, mental and physical; whether deformed or crippled, and if so, for how long and from what cause; whether coming with the intent to return to the country whence such alien comes after temporarily engaging in laboring pursuits in the United States; and such other items of information as will aid in determining whether any such alien belongs to any of the excluded classes enumerated in section three hereof; and such master or commanding officer, owners, or consignees shall also furnish information in relation to the sex, age, class of travel, and the foreign port of embarkation of arriving passengers who are United States citizens. That it shall further be the duty of the master or commanding officer of every vessel taking passengers from any port of the United States on the North American Continent to a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or from any port of the said insular possessions to any foreign port, to a port of the United States on the North American Continent, or to a port of another insular possession of the United States to file with

the immigration officials before departure a list which shall contain full and accurate information in relation to the following matters regarding all alien passengers, and all citizens of the United States or insular possessions of the United States departing with the stated intent to reside permanently in a foreign country, taken on board: Name, age, and sex; whether married or single; calling or occupation; whether able to read or write; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States or insular possessions thereof; if a citizen of the United States or of the insular possessions thereof, whether native born or naturalized; if native born, the place and date of birth, or if naturalized the city or town in which naturalization has been had; intended future permanent residence; and time and port of last arrival in the United States, or insular possessions thereof; and such master or commanding officer shall also furnish information in relation to the sex, age, class of travel, and port or debarkation of the United States citizens departing who do not intend to reside permanently in a foreign country and no master of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the immigration officials at the port of departure and made oath that they are full and complete as to the name and other information herein required concerning each person of the classes specified taken on board his vessel; and any neglect or omission to comply with the requirements of this section shall be punishable as provided in section fourteen of this act: *Provided,* That in the case of vessels making regular trips to ports of the United States the Commissioner General of Immigration, with the approval of the Secretary of Labor, may, when expedient, arrange for the delivery of such lists of outgoing aliens at a later date: *Provided further,* That it shall be the duty of immigration officials to record the following information regarding every resident alien and citizen leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Name, age, and sex; whether married or single; calling or occupation; whether able to read or write; na-

tionality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and times and port of last arrival in the United States; and if a United States citizen, whether native born or naturalized.

SEC. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, the names of those coming from the same locality to be assembled so far as practicable, and no one list or manifest shall contain more than thirty names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name and other items of information required by this act are contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and mental examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is of any of the classes excluded from admission into the United states by section three of this act, and that also according to the best of his knowledge and belief the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens, the mental and physical examinations and the verifications of the lists or manifests shall

be made by some competent surgeon employed by the owners of the said vessels, and the manifests shall be verified by such surgeon before a United States consular officer or other officer authorized to administer oaths: *Provided,* That if any changes in the condition of such aliens occur or develop during the voyage of the vessel on which they are traveling, such changes shall be noted on the manifest before the verification thereof.

SEC. 14. That it shall be unlawful for the master or commanding officer of any vessel bringing aliens into or carrying aliens out of the United States to refuse or fail to deliver to the immigration officials the accurate and full manifests or statements of information regarding all aliens on board or taken on board such vessel required by this act, and if it shall appear to the satisfaction of the Secretary of Labor that there has been such a refusal or failure, or that the lists delivered are not accurate and full, such master or commanding officer shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each alien concerning whom such accurate and full manifest or statement or information is not furnished, or concerning whom the manifest or statement or information is not prepared and sworn to as prescribed by this act. No vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided,* That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine.

SEC. 15. That upon the arrival at a port of the United States of any vessel bringing aliens it shall be the duty of the proper immigration officials to go or to send competent assistants to the vessel and there inspect all such aliens, or said immigration officials may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve vessels, the transportation lines, masters, agents, owners, or consignees of the vessel upon which said aliens are brought to any port of the

United States from any of the obligations which, in case such aliens remain on board, would under the provisions of this act bind the said vessels, transporation lines, masters, agents, owners, or consignees: *Provided,* That where removal is made to premises owned or controlled by the United States, said vessels, transporation lines, masters, agents, owners, or consignees, and each of them, shall, so long as detention there lasts, be relieved of responsibility for the safekeeping of such aliens. Whenever a temporary removal of aliens is made the vessels or transportation lines which brought them and the masters, owners, agents, and consignees of the vessel upon which they arrive shall pay all expenses of such removal and all expenses arising during subsequent detention, pending decision on the aliens' eligibility to enter the United States and until they are either allowed to land or returned to the care of the line or to the vessel which brought them, such expenses to include those of maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel in the event of deportation, excepting only where they arise under the terms of any of the provisos of section eighteen hereof. Any refusal or failure to comply with the provisions hereof shall be punished in the manner specified in section eighteen of this act.

SEC. 16. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health Service who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine, and who shall conduct all medical examinations and shall certify, for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien; or, should medical officers of the United States Public Health Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service upon such terms as may be prescribed by the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Labor. All

aliens arriving at ports of the United States shall be examined by not less than two such medical officers at the discretion of the Secretary of Labor, and under such administrative regulations as he may prescribe and under medical regulations prepared by the Surgeon General of the United States Public Health Service. Medical officers of the United States Public Health Service who have had especial training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at all ports of entry designated by the Secretary of Labor, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens in whom insanity or mental defect is suspected, and the services of interpreters shall be provided for such examination. Any alien certified for insanity or mental defect may appeal to the board of medical officers of the United States Public Health Service, which shall be convened by the Surgeon General of the United States Public Health Service, and said alien may introduce before such board one expert medical witness at his own cost and expense. That the inspection, other than the physical and mental examination, of aliens, including those seeking admission or readmission to or the privilege of passing through or residing in the United States, and the examination of aliens arrested within the United States under this act, shall be conducted by immigrant inspectors, except as hereinafter provided in regard to boards of special inquiry. All aliens arriving at ports of the United States shall be examined by at least two immigrant inspectors at the discretion of the Secretary of Labor and under such regulations as he may prescribe. Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, or any other conveyance, or vehicle in which they believe aliens are being brought into the United States. Said inspectors shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter, reenter, pass through, or reside in the United States, and, where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered, under the provisions of this

act, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by section one hundred and twenty-five of the act approved March fourth, nineteen hundred and nine, entitled "An act to codify, revise, and amend the penal laws of the United States." All aliens coming to the United States shall be required to state under oath the purposes for which they come, the length of time they intend to remain in the United States, whether or not they intend to abide in the United States permanently and become citizens thereof, and such other items of information regarding themselves as will aid the immigration officials in determining whether they belong to any of the excluded classes enumerated in section three hereof. Any commissioner of immigration or inspector in charge shall also have power to require by subpœna the attendance and testimony of witnesses before said inspectors and the production of books, papers, and documents touching the right of any alien to enter, reenter, reside in, or pass through the United States, and to that end may invoke the aid of any court of the United States; and any district court within the jurisdiction of which investigations are being conducted by an immigrant inspector may, in the event of neglect or refusal to respond to a subpœna issued by any commissioner of immigration or inspector in charge or refusal to testify before said immigrant inspector, issue an order requiring such person to appear before said immigrant inspector, produce books, papers, and documents if demanded, and testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof. That any person, including employees, officials, or agents of transportation companies, who shall assault, resist, prevent, impede, or interfere with any immigration official or employee in the performance of his duty under this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than one year, or by a fine of not more

than $2,000, or both; and any person who shall use any deadly or dangerous weapon in resisting any immigration official or employee in the performance of his duty shall be deemed guilty of a felony and shall, on conviction thereof, be punished by imprisonment for not more than ten years. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Secretary of Labor is permitted by this act, the alien shall be so informed and shall have the right to be represented by counsel or other adviser on such appeal. The decision of an immigrant inspector, if favorable to the admission of any alien, shall be subject to challenge by any other immigrant inspector, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation.

SEC. 17. That boards of special inquiry shall be appointed by the commissioner of immigration or inspector in charge at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of the law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner General of Immigration, with the approval of the Secretary of Labor, shall from time to time designate as qualified to serve on such boards. When in the opinion of the Secretary of Labor the maintenance of a permanent board of special inquiry for service at any sea or land border port is not warranted, regularly constituted boards may be detailed from other stations for temporary service at such port, or, if that be impracticable, the Secretary of Labor shall authorize the creation of boards of special inquiry by the immigration officials in charge at such ports, and shall determine what Government officials or other persons shall be eligible for service on such boards. Such boards shall have authority to determine whether an alien who has been duly held shall be

allowed to land or shall be deported. All hearings before such boards shall be separate and apart from the public, but the immigrant may have one friend or relative present under such regulations as may be prescribed by the Secretary of Labor. Such boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decisions of any two members of the board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner General of Immigration to the Secretary of Labor, and the taking of such appeal shall operate to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision which shall be rendered solely upon the evidence adduced before the board of special inquiry. In every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of a board of special inquiry adverse to the admission of such alien shall be final, unless reversed on appeal to the Secretary of Labor: *Provided,* That the decision of a board of special inquiry shall be based upon the certificate of the examining medical officer and, except as provided in section twenty-one hereof, shall be final as to the rejection of aliens affected with tuberculosis in any form or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section three of this act.

SEC. 18. That all aliens brought to this country in violation of law shall be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came, on the vessels bringing them, unless in the opinion of the Secretary of Labor immediate deportation is not practicable or proper. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively

came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to fail to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien, or to take any security for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this act, unless prior to reembarkation the Secretary of Labor has consented that such alien shall reapply for admission, as required by section three thereof; and if it shall appear to the satisfaction of the Secretary of Labor that such master, purser, person in charge, agent, owner, or consignee has violated any of the foregoing provisions, or any of the provisions of section fifteen hereof, such master, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $300 for each and every violation of any provision of said sections; and no vessel shall have clearance from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded: *Provided,* That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or consignee of the vessel: *Provided further,* That the Commissioner General of Immigration, with the approval of the Secretary of Labor, may suspend, upon conditions to be prescribed by

the Commissioner General of Immigration, the deportation of any aliens found to have come in violation of any provision of this act if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this act or other laws of the United States; and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of $1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this act, or such alien may be released under bond, in the penalty of not less than $500, with security approved by the Secretary of Labor, conditioned that such alien shall be produced when required as a witness and for deportation. No alien certified, as provided in section sixteen of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless the Secretary of Labor is satisfied that to refuse treatment would be inhumane or cause unusual hardship or suffering, in which case the alien shall be treated in the hospital under the supervision of the immigration officials at the expense of the vessel transporting him: *Provided further,* That upon the certificate of an examining medical officer to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further,* That upon the certificate of an examining medical officer to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said

alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

SEC. 19. That at any time within five years after entry, any alien who at the time of entry was a member of one or more of the classes excluded by law; any alien who shall have entered or who shall be found in the United States in violation of this act, or in violation of any other law of the United States;[1] any alien who at any time after entry shall be found advocating or teaching the unlawful destruction of property, or advocating or teaching anarchy, or the overthrow by force or violence of the Government of the United States or of all forms of law or the assassination of public officials; any alien who within five years after entry becomes a public charge from causes not affirmatively shown to have arisen subsequent to landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within five years after the entry of the alien to the United States, or who is hereafter sentenced more than once to such a term of imprisonment because of conviction in this country of any crime involving moral turpitude, committed at any time after entry; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who manages or is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists any prostitute or protects or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the busi-

[1] The latter part of this provision relates to Chinese entering or found in the United States in violation of the Chinese-exclusion laws. (S. Rept. 352, 64th Cong., 1st sess.)

ness of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified, shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section four hereof; any alien who was convicted, or who admits the commission, prior to entry, of a felony or other crime or misdemeanor involving moral turpitude; at any time within three years after entry, any alien who shall have entered the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, or who enters without inspection, shall, upon the warrant of the Secretary of Labor, be taken into custody and deported: *Provided,* That the marriage to an American citizen of a female of the sexually immoral classes the exclusion or deportation of which is prescribed by this act shall not invest such female with United States citizenship if the marriage of such alien female shall be solemnized after her arrest or after the commission of acts which make her liable to deportation under this act: *Provided further,* That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court, or judge thereof, sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence or within thirty days thereafter, due notice having first been given to representatives of the State, make a recommendation to the Secretary of Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further,* That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States: *Provided further,* That the provisions of this section shall also apply to the cases of aliens who come to the mainland of the United States from the

insular possessions thereof: *Provided further,* That any person who shall be arrested under the provisions of this section, on the ground that he has entered or been found in the United States in violation of any other law thereof which imposes on such person the burden of proving his right to enter or remain, and who shall fail to establish the existence of the right claimed, shall be deported to the place specified in such other law.[1] In every case where any person is ordered deported from the United States under the provisions of this act, or of any law or treaty, the decision of the Secretary of Labor shall be final.

SEC. 20. That the deportation of aliens provided for in this act shall, at the option of the Secretary of Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If deportation proceedings are instituted at any time within five years after the entry of the alien, such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port shall be at the expense of the owner or owners of such vessels or transportation line by which such aliens respectively came, or, if that is not practicable,

[1] This provision relates to Chinese entering or found in the United States in violation of the Chinese-exclusion laws. (S. Rept. 352, 64th Cong., 1st sess.)

at the expense of the appropriation for the enforcement of this act. If deportation proceedings are instituted later than five years after the entry of the alien, or, if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable from the appropriation for the enforcement of this act. A failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this act shall be punished by the imposition of the penalties prescribed in section eighteen of this act: *Provided,* That when in the opinion of the Secretary of Labor the mental or physical condition of such alien is such as to require personal care and attendance, the said Secretary shall when necessary employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanied alien is defrayed. Pending the final disposal of the case of any alien so taken into custody, he may be released under a bond in the penalty of not less than $500 with security approved by the Secretary of Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

SEC. 21. That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis in any form or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof, holding the United States and all States, Territories, counties, towns, municipalities, and districts thereof harmless

against such alien becoming a public charge. In lieu of such bond, such alien may deposit in cash with the Secretary of labor such amount as the Secretary of Labor may require, which amount shall be deposited by said Secretary in the United States Postal Savings Bank, a receipt therefor to be given the person furnishing said sum showing the fact and object of its receipt and such other information as said Secretary may deem advisable. All accruing interest on said deposit during the time same shall be held in the United States Postal Savings Bank shall be paid to the person furnishing the sum for deposit. In the event of such alien becoming a public charge, the Secretary of Labor shall dispose of said deposit in the same manner as if same had been collected under a bond as provided in this section. In the event of the permanent departure from the United States, the naturalization, or the death of such alien, the said sum shall be returned to the person by whom furnished, or to his legal representative. The admission of such alien shall be a consideration for the giving of such bond, undertaking, or cash deposit. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any State, Territory, District, county, town, or municipality in which such alien becomes a public charge.

SEC. 22. That whenever an alien shall have been naturalized or shall have taken up his permanent residence in this country, and thereafter shall send for his wife or minor children to join him, and said wife or any of said minor children shall be found to be affected with any contagious disorder, such wife or minor children shall be held, under such regulations as the Secretary of Labor shall prescribe, until it shall be determined whether the disorder will be easily curable or whether they can be permitted to land without danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable and the husband or father or other responsible person is willing to bear the expense of the treatment, they may be accorded treatment in hospital until cured and then be admitted, or if it shall be determined that they

can be permitted to land without danger to other persons, they may, if otherwise admissible, thereupon be admitted: *Provided,* That if the person sending for wife or minor children is naturalized, a wife to whom married or a minor child born subsequent to such husband or father's naturalization shall be admitted without detention for treatment in hospital, and with respect to a wife to whom married or a minor child born prior to such husband or father's naturalization the provisions of this section shall be observed, even though such person is unable to pay the expense of treatment, in which case the expense shall be paid from the appropriation for the enforcement of this act.

SEC. 23. That the Commissioner General of Immigration shall perform all his duties under the direction of the Secretary of Labor. Under such direction he shall have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder; he shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid, and to remove to their native country, at any time within three years after entry, at the expense of the appropriations for the enforcement of this act, such as fall into distress or need public aid from causes arising subsequent to their entry and are desirous of being so removed; he shall prescribe rules for the entry and inspection of aliens coming to the United States from or through Canada and Mexico, so as not unnecessarily to delay, impede, or annoy persons in ordinary travel between the United States and said countries, and shall have power to enter into contracts with transportation lines for the said purpose. It shall be the duty of the Commissioner General of Immigration to detail officers of the Immigration Service from time

to time as may be necessary, in his judgment, to secure information as to the number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United States, and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges. He may, with the approval of the Secretary of Labor, whenever in his judgment such action may be necessary to accomplish the purposes of this act, detail immigration officers for service in foreign countries; and, upon his request, approved by the Secretary of Labor, the Secretary of the Treasury may detail medical officers of the United States Public Health Service for the performance of duties in foreign countries in connection with the enforcement of this act. The duties of commissioners of immigration and other immigration officials in charge of districts, ports, or stations shall be of an administrative character, to be prescribed in detail by regulations prepared under the direction or with the approval of the Secretary of Labor: *Provided,* That no person, company, or transportation line engaged in carrying alien passengers for hire from Canada or Mexico to the United States, whether by land or water, shall be allowed to land any such passengers in the United States without providing suitable and approved landing stations, conveniently located, at the point or points of entry. The Commissioner General of Immigration is hereby authorized and empowered to prescribe the conditions, not inconsistent with law, under which the above-mentioned landing stations shall be deemed suitable within the meaning of this section. Any person, company, or transportation line landing an alien passenger in the United States without compliance with the requirement herein set forth shall be deemed to have violated section eight of this act, and upon conviction shall be subject to the penalty therein prescribed: *Provided further,* That for the purpose of making effective the provisions of this section relating to the protection of aliens from fraud and loss, and also the provisions of section thirty of this act, relating to the distribution of aliens,

the Secretary of Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors: *Provided further,* That in prescribing rules and making contracts for the entry and inspection of aliens applying for admission from or through foreign contiguous territory, due care shall be exercised to avoid any discriminatory action in favor of foreign transportation companies transporting to such territory aliens destined to the United States, and all such transportation companies shall be required, as a condition precedent to the inspection or examination under such rules and contracts at the ports of such contiguous territory of aliens brought thereto by them, to submit to and comply with all the requirements of this act which would apply were they bringing such aliens directly to seaports of the United States, and from and after the taking effect of this act, no alien applying for admission from foreign contiguous territory shall be permitted to enter the United States unless upon proving that he was brought to such territory by a transportation company which had submitted to and complied with all the requirements of this act, or that he entered, or has resided in, such territory more than two years prior to the date of his application for admission to the United States.

SEC. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed and their compensation fixed and raised or decreased from time to time by the Secretary of Labor, upon the recommendation of the Commissioner General of Immigration and in accordance with the provisions of the civil-service act of January sixteenth, eighteen hundred and eighty-three: *Provided,* That said Secretary, in the enforcement of that portion of this act which excludes contract laborers and induced and assisted immigrants, may employ, for such purposes and for detail upon additional service under this act when not so engaged, without reference to the provisions of the said civil-service act, or to the various acts relative to the compilation of the Official Reg-

ister, such persons as he may deem advisable and from time to time fix, raise, or decrease their compensation. He may draw annually from the appropriation for the enforcement of this act $100,000, or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of Labor certifies that an itemized account would not be for the best interests of the Government: *Provided further,* That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation act approved August eighteenth, eighteen hundred and ninety-four, or the official status of such commissioners heretofore appointed.

SEC. 25. That the district courts of the United States are hereby invested with full jurisdiction of all causes, civil and criminal, arising under any of the provisions of this act. That it shall be the duty of the United States district attorney of the proper district to prosecute every such suit when brought by the United States under this act. Such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with such violation may be found. That no suit or proceeding for a violation of the provisions of this act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

SEC. 26. That all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigrant station, shall be disposed of to the lowest responsible and capable bidder, after public competition, notice of such competitive bidding having been made in two newspapers of general circulation for a period of two weeks, subject to such conditions and limitations as the Commissioner General of Immigration, under

the direction or with the approval of the Secretary of Labor, may prescribe, and all receipts accruing from the disposal of privileges shall be paid into the Treasury of the United States. No such contract shall be awarded to an alien. No intoxicating liquors shall be sold at any such immigration station.

SEC. 27. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

SEC. 28. That any person who knowingly aids or assists any anarchist or any person who believes in or advocates the overthrow by force or violence of the Government of the United States, or who disbelieves in or is opposed to organized government, or all forms of law, or who advocates the assassination of public officials, or who is a member of or affiliated with any organization entertaining or teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such anarchist or person aforesaid to enter therein, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than $5,000 or by imprisonment for not more than five years, or both.

Any person who knowingly aids or assists any alien who advocates or teaches the unlawful destruction of property to enter the United States shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than $1,000, or by imprisonment for not

more than six months, or by both such fine and imprisonment.

SEC. 29. That the President of the United States is authorized, in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon, or to send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States; of providing for the mental, moral, and physical examination of such aliens by American consuls or other officers of the United States Government at the ports of embarkation, or elsewhere; of securing the assistance of foreign Governments in their own territories to prevent the evasion of the laws of the United States governing immigration to the United States; of entering into such international agreements as may be proper to prevent the immigration of aliens who, under the laws of the United States, are or may be excluded from entering the United States, and of regulating any matters pertaining to such immigration.

SEC. 30. That there shall be maintained a division of information in the Bureau of Immigration; and the Secretary of Labor shall provide such clerical and other assistance as may be necessary. It shall be the duty of said division to promote a beneficial distribution of aliens admitted into the United States among the several States and Territories desiring immigration. Correspondence shall be had with the proper officials of the States and Territories, and said division shall gather from all available sources useful information regarding the resources, products, and physical characteristics of each State and Territory, and shall publish such information in different languages and distribute the publications among all admitted aliens at the immigrant stations of the United States and to such other persons as may desire the same. When any State or Territory appoints and maintains an agent or agents to represent it at any of the immigrant stations of the United States, such agents shall, under regulations prescribed by the Commissioner General of Immigration, subject to the

approval of the Secretary of Labor, have access to aliens who have been admitted to the United States for the purpose of presenting, either orally or in writing, the special inducements offered by such State or Territory to aliens to settle therein. While on duty at any immigrant station such agents shall be subject to all the regulations prescribed by the Commissioner General of Immigration, who, with the approval of the Secretary of Labor, may, for violation of any such regulations, deny to the agent guilty of such violation any of the privileges herein granted.

SEC. 31. That any person, including the owner, agent, consignee, or master of any vessel arriving in the United States from any foreign port or place, who shall knowingly sign on the ship's articles, or bring to the United States as one of the crew of such vessel, any alien, with intent to permit such alien to land in the United States in violation of the laws and treaties of the United States regulating the immigration of aliens, or who shall falsely and knowingly represent to the immigration authorities at the port of arrival that any such alien is a bona fide member of the crew, shall be liable to a penalty not exceeding $5,000, for which sum the said vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

SEC. 32. That no alien excluded from admission into the United States by any law, convention, or treaty of the United States regulating the immigration of aliens, and employed on board any vessel arriving in the United States from any foreign port or place, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to regulations prescribed by the Secretary of Labor providing for the ultimate removal or deportation of such alien from the United States, and the negligent failure of the owner, agent, consignee, or master of such vessel to detain on board any such alien after notice in writing by the immigration officer in charge at the port of arrival, and to deport such alien, if required by such immigration officer or by the Secretary of Labor, shall render such owner, agent, consignee, or master liable to a penalty not exceeding $1,000, for which sum the said ves-

sel shall be liable, and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

SEC. 33. That it shall be unlawful and be deemed a violation of the preceding section to pay off or discharge any alien employed on board any vessel arriving in the United States from any foreign port or place, unless duly admitted pursuant to the laws and treaties of the United States regulating the immigration of aliens: *Provided,* That in case any such alien intends to reship on board any other vessel bound to any foreign port or place, he shall be allowed to land for the purpose of so reshipping, under such regulations as the Secretary of Labor may prescribe to prevent aliens not admissible under any law, convention, or treaty from remaining permanently in the United States, and may be paid off, discharged, and permitted to remove his effects, anything in such laws or treaties or in this act to the contrary notwithstanding, provided due notice of such proposed action be given by the master or the seaman himself to the principal immigration officer in charge at the port of arrival.

SEC. 34. That any alien seaman who shall land in a port of the United States contrary to the provisions of this act shall be deemed to be unlawfully in the United States, and shall, at any time within three years thereafter, upon the warrant of the Secretary of Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this act as provided in section twenty of this act.

SEC. 35. That it shall be unlawful for any vessel carrying passengers between a port of the United States and a port of a foreign country, upon arrival in the United States, to have on board employed thereon any alien afflicted with idiocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, if it appears to the satisfaction of the Secretary of Labor, from an examination made by a medical officer of the United States Public Health Service, and is so certified by

such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel and that the existence of such affliction might have been detected by means of a competent medical examination at such time; and for every such alien so afflicted on board any such vessel at the time of arrival the owner, agent, consignee, or master thereof shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $50, and pending departure of the vessel the alien shall be detained and treated in hospital under supervision of immigration officials at the expense of the vessel; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and while it remains unpaid: *Provided,* That clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine: *Provided further,* That such fine may, in the discretion of the Secretary of Labor, be mitigated or remitted.

Sec. 36. That upon arrival of any vessel in the United States from any foreign port or place it shall be the duty of the owner, agent, consignee, or master thereof to deliver to the principal immigration officer in charge of the port of arrival lists containing the names of all aliens employed on such vessel, stating the positions they respectively hold in the ship's company, when and where they were respectively shipped or engaged, and specifying those to be paid off and discharged in the port of arrival; or lists containing so much of such information as the Secretary of Labor shall by regulation prescribe; and after the arrival of any such vessel it shall be the duty of such owner, agent, consignee, or master to report to such immigration officer, in writing, as soon as discovered, all cases in which any such alien has illegally landed from the vessel, giving a description of such alien, together with any information likely to lead to his apprehension; and before the departure of any such vessel it shall be the duty of such owner, agent, consignee, or master to deliver to such immigration officer a further list containing the names of all alien employees who were not employed thereon at the time of the arrival

but who will leave port thereon at the time of her departure, and also the names of those, if any, who have been paid off and discharged, and of those, if any, who have deserted or landed; and in case of the failure of such owner, agent, consignee, or master so to deliver either of the said lists of such aliens arriving and departing, respectively, or so to report such cases of desertion or landing, such owner, agent, consignee, or master shall, if required by the Secretary of Labor, pay to the collector of customs of the customs district in which the port of arrival is located the sum of $10 for each alien concerning whom correct lists are not delivered or a true report is not made as above required; and no such vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, and, in the event such fine is imposed, while it remains unpaid; nor shall such fine be remitted or refunded: *Provided,* That clearance may be granted prior to the determination of such question upon deposit of a sum sufficient to cover such fine.

SEC. 37. That the word "person" as used in this act shall be construed to import both plural and the singular, as the case may be, and shall include corporations, companies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any director, officer, agent, or employee of any corporation, company, or association acting within the scope of his employment or office shall in every case be deemed to be the act, omission, or failure of such corporation, company, or association, as well as that of the person acting for or in behalf of such corporation, company, or association.

SEC. 38. That this act, except as otherwise provided in section three, shall take effect and be enforced on and after May first, nineteen hundred and seventeen. The act of March twenty-sixth, nineteen hundred and ten, amending the act of February twentieth, nineteen hundred and seven, to regulate the immigration of aliens into the United States; the act of February twentieth, nineteen hundred and seven, to regulate the immigration of aliens into the United States, except section thirty-four thereof; the act of March third, nineteen hundred and three, to regulate the

immigration of aliens into the United States, except section thirty-four thereof; and all other acts and parts of acts inconsistent with this act are hereby repealed on and after the taking effect of this act: *Provided,* That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, except as provided in section nineteen hereof, nor to repeal, alter, or amend section six, chapter four hundred and fifty-three, third session Fifty-eighth Congress, approved February sixth, nineteen hundred and five, nor to repeal, alter, or amend the act approved August second, eighteen hundred and eighty-two, entitled "An act to regulate the carriage of passengers by sea," and amendments thereto, except as provided in section eleven hereof: *Provided further,* That nothing contained in this act shall be construed to affect any prosecution, suit, action, or proceedings brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this act, except as mentioned in the third proviso of section nineteen hereof; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the laws or parts of laws repealed or amended by this act are hereby continued in force and effect.

Act Approved October 16, 1918, as Amended by the Act Approved June 5, 1920.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the act entitled "An act to exclude and expel from the United States aliens who are members of the anarchistic and similar classes," approved October 16, 1918, is amended to read as follows:

That the following aliens shall be excluded from admission into the United States:

(*a*) Aliens who are anarchists;

(*b*) Aliens who advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group, that advises, advocates, or teaches, opposition to all organized government;

(*c*) Aliens who believe in, advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group, that believes in, advises, advocates, or teaches: (1) the overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character, or (3) the unlawful damage, injury, or destruction of property, or (4) sabotage;

(*d*) Aliens who write, publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, distribution, publication, or display, any written or printed matter, advising, advocating, or teaching opposition to all organized government, or advising, advocating, or teaching: (1) the overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, or (3) the unlawful damage, injury, or destruction of property, or (4) sabotage;

(*e*) Aliens who are members of or affiliated with any organization, association, society, or group, that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subdivision (*d*).

For the purpose of this section: (1) the giving, loaning, or promising of money or anything of value to be used for the advising, advocacy, or teaching of any doctrine above enumerated shall constitute the advising, advocacy, or teaching of such doctrine; and (2) the giving, loaning, or promising of money or anything of value to any organization, association, society, or group of the character above describe shall constitute affiliation therewith; but nothing in this paragraph shall be taken as an exclusive definition of advising, advocacy, teaching, or affiliation.

SEC. 2. That any alien who, at any time after entering the United States, is found to have been at the time of entry,

or to have become thereafter, a member of any one of the classes of aliens enumerated in section one of this act, shall, upon the warrant of the Secretary of Labor, be taken into custody and deported in the manner provided in the immigration act of February fifth, nineteen hundred and seventeen. The provisions of this section shall be applicable to the classes of aliens mentioned in this act irrespective of the time of their entry into the United States.

SEC. 3. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this act, thereafter return to or enter the United States or attempt to return to or to enter the United States shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment for a term of not more than five years; and shall, upon the termination of such imprisonment, be taken into custody, upon the warrant of the Secretary of Labor, and deported in the manner provided in the immigration act of February fifth, nineteen hundred and seventeen.

AN ACT TO PROVIDE FOR THE TREATMENT IN HOSPITAL OF DISEASED ALIEN SEAMEN.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That alien seamen found on arrival in ports of the United States to be afflicted with any of the disabilities or diseases mentioned in section 35 of the act of February 5, 1917, entitled "An act to regulate the immigration of aliens to, and the residence of aliens in, the United States," shall be placed in a hospital designated by the immigration official in charge at the port of arrival and treated, all expenses connected therewith, including burial in the event of death, to be borne by the owner, agent, consignee, or master of the vessel, and not to be deducted from the seamen's wages, and no such vessel shall be granted clearance until such expenses are paid or their payment appropriately guaranteed and the collector of customs so notified by the immigration official in charge: *Provided,* That alien seamen suspected of being afflicted with any such disability

or disease may be removed from the vessel on which they arrive to an immigration station or other appropriate place for such observation as will enable the examining surgeons definitely to determine whether or not they are so afflicted; all expenses connected therewith to be borne in the manner hereinbefore prescribed: *Provided further,* That in cases in which it shall appear to the satisfaction of the immigration official in charge that it will not be possible within a reasonable time to effect a cure, the return of the alien seamen shall be enforced on or at the expense of the vessel on which they came, upon such conditions as the Commissioner General of Immigration, with the approval of the Secretary of Labor, shall prescribe, to insure that the aliens shall be properly cared for and protected, and that the spread of contagion shall be guarded against.

Approved December 26, 1920.

Employees of Bureau of Immigration Authorized to Make Arrests Without Warrant in Certain Cases

[Act approved February 27, 1924]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, * * * That hereafter any employee of the Bureau of Immigration authorized so to do under regulations prescribed by the Commissioner General of Immigration with the approval of the Secretary of Labor, shall have power without warrant (1) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission of aliens, and to take such alien immediately for examination before an immigrant inspector or other official having authority to examine aliens as to their right to admission to the United States, and (2) to board and search for aliens any vessel within the territorial waters of the United States, railway car, conveyance, or vehicle, in which he believes aliens are being brought into the United States; and such employee shall have power to execute any warrant or other process issued

by any officer under any law regulating the admission, exclusion, or expulsion of aliens.

AN ACT TO LIMIT THE IMMIGRATION OF ALIENS INTO THE UNITED STATES, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Immigration Act of 1924."

IMMIGRATION VISAS.

SEC. 2. (a) A consular officer upon the application of any immigrant (as defined in section 3) may (under the conditions hereinafter prescribed and subject to the limitations prescribed in this Act or regulations made thereunder as to the number of immigration visas which may be issued by such officer) issue to such immigrant an immigration visa which shall consist of one copy of the application provided for in section 7, visaed by such consular officer. Such visa shall specify (1) the nationality of the immigrant; (2) whether he is a quota immigrant (as defined in section 5) or a non-quota immigrant (as defined in section 4); (3) the date on which the validity of the immigration visa shall expire; and (4) such additional information necessary to the proper enforcement of the immigration laws and the naturalization laws as may be by regulations prescribed.

(b) The immigrant shall furnish two copies of his photograph to the consular officer. One copy shall be permanently attached by the consular officer to the immigration visa and the other copy shall be disposed of as may be by regulations prescribed.

(c) The validity of an immigration visa shall expire at the end of such period, specified in the immigration visa, not exceeding four months, as shall be by regulations prescribed. In the case of an immigrant arriving in the United States by water, or arriving by water in foreign contiguous territory on a continuous voyage to the United States, if the vessel, before the expiration of the validity of his immigration visa, departed from the last port outside the United

States and outside foreign contiguous territory at which the immigrant embarked, and if the immigrant proceeds on a continuous voyage to the United States, then, regardless of the time of his arrival in the United States, the validity of his immigration visa shall not be considered to have expired.

(d) If an immigrant is required by any law, or regulations or orders made pursuant to law, to secure the visa of his passport by a consular officer before being permitted to enter the United States, such immigrant shall not be required to secure any other visa of his passport than the immigration visa issued under this Act, but a record of the number and date of his immigration visa shall be noted on his passport without charge therefor. This subdivision shall not apply to an immigrant who is relieved, under subdivision (b) of section 13, from obtaining an immigration visa.

(e) The manifest or list of passengers required by the immigration laws shall contain a place for entering thereon the date, place of issuance, and number of the immigration visa of each immigrant. The immigrant shall surrender his immigration visa to the immigration officer at the port of inspection, who shall at the time of inspection indorse on the immigration visa the date, the port of entry, and the name of the vessel, if any, on which the immigrant arrived. The immigration visa shall be transmitted forthwith by the immigration officer in charge at the port of inspection to the Department of Labor under regulations prescribed by the Secretary of Labor.

(f) No immigration visa shall be issued to an immigrant if it appears to the consular officer, from statements in the application, or in the papers submitted therewith, that the immigrant is inadmissible to the United States under the immigration laws, nor shall such immigration visa be issued if the application fails to comply with the provisions of this Act, nor shall such immigration visa be issued if the consular officer knows or has reason to believe that the immigrant is inadmissible to the United States under the immigration laws.

(g) Nothing in this Act shall be construed to entitle an

immigrant, to whom an immigration visa has been issued, to enter the United States, if, upon arrival in the United States, he is found to be inadmissible to the United States under the immigration laws. The substance of this subdivision shall be printed conspicuously upon every immigration visa.

(h) A fee of $9 shall be charged for the issuance of each immigration visa, which shall be covered into the Treasury as miscellaneous receipts.

DEFINITION OF "IMMIGRANT."

SEC. 3. When used in this Act the term "immigrant" means any alien departing from any place outside the United States destined for the United States, except (1) a government official, his family, attendants, servants, and employees, (2) an alien visiting the United States temporarily as a tourist or temporarily for business or pleasure, (3) an alien in continuous transit through the United States, (4) an alien lawfully admitted to the United States who later goes in transit from one part of the United States to another through foreign contiguous territory, (5) a bona fide alien seaman serving as such on a vessel arriving at a port of the United States and seeking to enter temporarily in the United States solely in the pursuit of his calling as a seaman, and (6) an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of a present existing treaty of commerce and navigation.

NON-QUOTA IMMIGRANTS.

SEC. 4. When used in this Act the term "non-quota immigrant" means—

(a) An immigrant who is the unmarried child under 18 years of age, or the wife, of a citizen of the United States who resides therein at the time of the filing of a petition under section 9;

(b) An immigrant previously lawfully admitted to the United States, who is returning from a temporary visit abroad;

(c) An immigrant who was born in the Dominion of Canada, Newfoundland, the Republic of Mexico, the Republic of Cuba, the Republic of Haiti, the Dominican Republic, the Canal Zone, or an independent country of Central or South America, and his wife, and his unmarried children under 18 years of age, if accompanying or following to join him;

(d) An immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of, carrying on the vocation of minister of any religious denomination, or professor of a college, academy, seminary, or university; and his wife, and his unmarried children under 18 years of age, if accompanying or following to join him; or

(e) An immigrant who is a bona fide student at least 15 years of age and who seeks to enter the United States solely for the purpose of study at an accredited school, college, academy, seminary, or university, particularly designated by him and approved by the Secretary of Labor, which shall have agreed to report to the Secretary of Labor the termination of attendance of each immigrant student, and if any such institution of learning fails to make such reports promptly the approval shall be withdrawn.

QUOTA IMMIGRANTS.

SEC. 5. When used in this Act the term "quota immigrant" means any immigrant who is not a non-quota immigrant. An alien who is not particularly specified in this Act as a non-quota immigrant or a non-immigrant shall not be admitted as a non-quota immigrant or a non-immigrant by reason of relationship to any individual who is so specified or by reason of being excepted from the operation of any other law regulating or forbidding immigration.

PREFERENCES WITHIN QUOTAS.

SEC. 6. (a) In the issuance of immigration visas to quota immigrants preference shall be given—

(1) To a quota immigrant who is the unmarried child

under 21 years of age, the father, the mother, the husband, or the wife, of a citizen of the United States who is 21 years of age or over; and

(2) To a quota immigrant who is skilled in agriculture, and his wife, and his dependent children under the age of 16 years, if accompanying or following to join him. The preference provided in this paragraph shall not apply to immigrants of any nationality the annual quota for which is less than 300.

(b) The preference provided in subdivision (a) shall not in the case of quota immigrants of any nationality exceed 50 per centum of the annual quota for such nationality. Nothing in this section shall be construed to grant to the class of immigrants specified in paragraph (1) of subdivision (a) a priority in preference over the class specified in paragraph (2).

(c) The preference provided in this section shall, in the case of quota immigrants of any nationality, be given in the calendar month in which the right to preference is established, if the number of immigration visas which may be issued in such month to quota immigrants of such nationality has not already been issued; otherwise in the next calendar month.

APPLICATION FOR IMMIGRATION VISA.

SEC. 7. (a) Every immigrant applying for an immigration visa shall make application therefor in duplicate in such form as shall be by regulations prescribed.

(b) In the application the immigrant shall state (1) the immigrant's full and true name; age, sex, and race; the date and place of birth; places of residence for the five years immediately preceding his application; whether married or single, and the names and places of residence of wife or husband and minor children, if any; calling or occupation; personal description (including height, complexion, color of hair and eyes, and marks of identification); ability to speak, read, and write; names and addresses of parents, and if neither parent living, then the name and address of his nearest relative in the country from which he comes;

port of entry into the United States; final destination, if any, beyond the port of entry; whether he has a ticket through to such final destination; whether going to join a relative or friend, and, if so, what relative or friend and his name and complete address; the purpose for which he is going to the United States; the length of time he intends to remain in the United States; whether or not he intends to abide in the United States permanently; whether ever in prison or almshouse; whether he or either of his parents has ever been in an institution or hospital for the care and treatment of the insane; (2) if he claims to be a non-quota immigrant, the facts on which he bases such claim; and (3) such additional information necessary to the proper enforcement of the immigration laws and the naturalization laws, as may be by regulations prescribed.

(c) The immigrant shall furnish, if available, to the consular officer, with his application, two copies of his "dossier" and prison record and military record, two certified copies of his birth certificate, and two copies of all other available public records concerning him kept by the Government to which he owes allegiance. One copy of the documents so furnished shall be permanently attached to each copy of the application and become a part thereof. An immigrant having an unexpired permit issued under the provisions of section 10 shall not be subject to this subdivision. In the case of an application made before September 1, 1924, if it appears to the satisfaction of the consular officer that the immigrant has obtained a visa of his passport before the enactment of this Act, and is unable to obtain the documents referred to in this subdivision without undue expense and delay, owing to absence from the country from which such documents should be obtained, the consular officer may relieve such immigrant from the requirements of this subdivision.

(d) In the application the immigrant shall also state (to such extent as shall be by regulations prescribed) whether or not he is a member of each class of individuals excluded from admission to the United States under the immigration laws, and such classes shall be stated on the blank in such form as shall be by regulations prescribed,

and the immigrant shall answer separately as to each class.

(e) If the immigrant is unable to state that he does not come within any of the excluded classes, but claims to be for any legal reason exempt from exclusion, he shall state fully in the application the grounds for such alleged exemption.

(f) Each copy of the application shall be signed by the immigrant in the presence of the consular officer and verified by the oath of the immigrant administered by the consular officer. One copy of the application, when visaed by the consular officer, shall become the immigration visa, and the other copy shall be disposed of as may be by regulations prescribed.

(g) In the case of an immigrant under eighteen years of age the application may be made and verified by such individual as shall be by regulations prescribed.

(h) A fee of $1 shall be charged for the furnishing and verification of each application, which shall include the furnishing and verification of the duplicate, and shall be covered into the Treasury as miscellaneous receipts.

NON-QUOTA IMMIGRATION VISAS.

SEC. 8. A consular officer may, subject to the limitations provided in sections 2 and 9, issue an immigration visa to a non-quota immigrant as such upon satisfactory proof, under regulations prescribed under this Act, that the applicant is entitled to be regarded as a non-quota immigrant.

ISSUANCE OF IMMIGRATION VISAS TO RELATIVES.

SEC. 9. (a) In case of any immigrant claiming in his application for an immigration visa to be a non-quota immigrant by reason of relationship under the provisions of subdivision (a) of section 4, or to be entitled to preference by reason of relationship to a citizen of the United States under the provisions of section 6, the consular officer shall not issue such immigration visa or grant such preference until he has been authorized to do so as herinafter provided.

(b) Any citizen of the United States claiming that any immigrant is his relative, and that such immigrant is prop-

erly admissible to the United States as a non-quota immigrant under the provisions of subdivision (a) of section 4 or is entitled to preference as a relative under section 6, may file with the Commissioner General a petition in such form as may be by regulations prescribed, stating (1) the petitioner's name and address; (2) if a citizen by birth, the date and place of his birth; (3) if a naturalized citizen, the date and place of his admission to citizenship and the number of his certificate, if any; (4) the name and address of his employer or the address of his place of business or occupation if he is not an employee; (5) the degree of the relationship of the immigrant for whom such petition is made, and the names of all the places where such immigrant has resided prior to and at the time when the petition is filed; (6) that the petitioner is able to and will support the immigrant if necessary to prevent such immigrant from becoming a public charge; and (7) such additional information necessary to the proper enforcement of the immigration laws and the naturalization laws as may be by regulations prescribed.

(c) The petition shall be made under oath administered by any individual having power to administer oaths, if executed in the United States, but, if executed outside the United States, administered by a consular officer. The petition shall be supported by any documentary evidence required by regulations prescribed under this Act. Application may be made in the same petition for admission of more than one individual.

(d) The petition shall be accompanied by the statements of two or more responsible citizens of the United States, to whom the petitioner has been personally known for at least one year, that to the best of their knowledge and belief the statements made in the petition are true and that the petitioner is a responsible individual able to support the immigrant or immigrants for whose admission application is made. These statements shall be attested in the same way as the petition.

(e) If the Commissioner General finds the facts stated in the petition to be true, and that the immigrant in respect of whom the petition is made is entitled to be admitted to

the United States as a non-quota immigrant under subdivision (a) of section 4 or is entitled to preference as a relative under section 6, he shall, with the approval of the Secretary of Labor, inform the Secretary of State of his decision, and the Secretary of State shall then authorize the consular officer with whom the application for the immigration visa has been filed to issue the immigration visa or grant the preference.

(f) Nothing in this section shall be construed to entitle an immigrant, in respect of whom a petition under this section is granted, to enter the United States as a non-quota immigrant, if, upon arrival in the United States, he is found not to be a non-quota immigrant.

PERMIT TO REENTER UNITED STATES AFTER TEMPORARY ABSENCE.

SEC. 10. (a) Any alien about to depart temporarily from the United States may make application to the Commissioner General for a permit to reenter the United States, stating the length of his intended absence, and the reasons therefor. Such application shall be made under oath, and shall be in such form and contain such information as may be by regulations prescribed, and shall be accompanied by two copies of the applicant's photograph.

(b) If the Commissioner General finds that the alien has been legally admitted to the United States, and that the application is made in good faith, he shall, with the approval of the Secretary of Labor, issue the permit, specifying therein the length of time, not exceeding one year, during which it shall be valid. The permit shall be in such form as shall be by regulations prescribed and shall have permanently attached thereto the photograph of the alien to whom issued, together with such other matter as may be deemed necessary for the complete identification of the alien.

(c) On good cause shown the validity of the permit may be extended for such period or periods, not exceeding six months each, and under such conditions, as shall be by regulations prescribed.

(d) For the issuance of the permit, and for each exten-

sion thereof, there shall be paid a fee of $3, which shall be covered into the Treasury as miscellaneous receipts.

(e) Upon the return of the alien to the United States the permit shall be surrendered to the immigration officer at the port of inspection.

(f) A permit issued under this section shall have no effect under the immigration laws, except to show that the alien to whom it is issued is returning from a temporary visit abroad; but nothing in this section shall be construed as making such permit the exclusive means of establishing that the alien is so returning.

NUMERICAL LIMITATIONS.

SEC. 11. (a) The annual quota of any nationality shall be 2 per centum of the number of foreign-born individuals of such nationality resident in continental United States as determined by the United States census of 1890, but the minimum quota of any nationality shall be 100.

(b) The annual quota of any nationality for the fiscal year beginning July 1, 1927, and for each fiscal year thereafter, shall be a number which bears the same ratio to 150,000 as the number of inhabitants in continental United States in 1920 having that national origin (ascertained as hereinafter provided in this section) bears to the number of inhabitants in continental United States in 1920, but the minimum quota of any nationality shall be 100.

(c) For the purpose of subdivision (b) national origin shall be ascertained by determining as nearly as may be, in respect of each geographical area which under section 12 is to be treated as a separate country (except the geographical areas specified in subdivision (c) of section 4) the number of inhabitants in continental United States in 1920 whose origin by birth or ancestry is attributable to such geographical area. Such determination shall not be made by tracing the ancestors or descendants of particular individuals, but shall be based upon statistics of immigration and emigration, together with rates of increase of population as shown by successive decennial United States censuses, and such other data as may be found to be reliable.

(d) For the purpose of subdivisions (b) and (c) the term "inhabitants in continental United States in 1920" does not include (1) immigrants from the geographical areas specified in subdivision (c) of section 4 or their descendants, (2) aliens ineligible to citizenship or their descendants, (3) the descendants of slave immigrants, or (4) the descendants of American aborigines.

(e) The determination provided for in subdivision (c) of this section shall be made by the Secretary of State, the Secretary of Commerce, and the Secretary of Labor, jointly. In making such determination such officials may call for information and expert assistance from the Bureau of the Census. Such officials shall, jointly report to the President the quota of each nationality, determined as provided in subdivision (b), and the President shall proclaim and make known the quotas so reported. Such proclamation shall be made on or before April 1, 1927. If the proclamation is not made on or before such date, quotas proclaimed therein shall not be in effect for any fiscal year beginning before the expiration of 90 days after the date of the proclamation. After the making of a proclamation under this subdivision the quotas proclaimed therein shall continue with the same effect as if specifically stated herein, and shall be final and conclusive for every purpose except (1) in so far as it is made to appear to the satisfaction of such officials and proclaimed by the President, that an error of fact has occurred in such determination or in such proclamation, or (2) in the case provided for in subdivision (c) of section 12. If for any reason quotas proclaimed under this subdivision are not in effect for any fiscal year, quotas for such year shall be determined under subdivision (a) of this section.

(f) There shall be issued to quota immigrants of any nationality (1) no more immigration visas in any fiscal year than the quota for such nationality, and (2) in any calendar month of any fiscal year no more immigration visas than 10 per centum of the quota for such nationality, except that if such quota is less than 300 the number to be issued in any calendar month shall be prescribed by the Commissioner General, with the approval of the Secretary of Labor, but

the total number to be issued during the fiscal year shall not be in excess of the quota for such nationality.

(g) Nothing in this Act shall prevent the issuance (without increasing the total number of immigration visas which may be issued) of an immigration visa to an immigrant as a quota immigrant even though he is a non-quota immigrant.

NATIONALITY.

SEC. 12. (a) For the purposes of this Act nationality shall be determined by country of birth, treating as separate countries the colonies, dependencies, or self-governing dominions, for which separate enumeration was made in the United States census of 1890; except that (1) the nationality of a child under twenty-one years of age not born in the United States, accompanied by its alien parent not born in the United States, shall be determined by the country of birth of such parent if such parent is entitled to an immigration visa, and the nationality of a child under twenty-one years of age not born in the United States, accompanied by both alien parents not born in the United States, shall be determined by the country of birth of the father if the father is entitled to an immigration visa; and (2) if a wife is of a different nationality from her alien husband and the entire number of immigration visas which may be issued to quota immigrants of her nationality for the calendar month has already been issued, her nationality may be determined by the country of birth of her husband if she is accompanying him and he is entitled to an immigration visa, unless the total number of immigration visas which may be issued to quota immigrants of the nationality of the husband for the calendar month has already been issued. An immigrant born in the United States who has lost his United States citizenship shall be considered as having been born in the country of which he is a citizen or subject, or if he is not a citizen or subject of any country, then in the country from which he comes.

(b) The Secretary of State, the Secretary of Commerce, and the Secretary of Labor, jointly, shall, as soon as feasible after the enactment of this Act, prepare a statement

showing the number of individuals of the various nationalities resident in continental United States as determined by the United States census of 1890, which statement shall be the population basis for the purposes of subdivision (a) of section 11. In the case of a country recognized by the United States, but for which a separate enumeration was not made in the census of 1890, the number of individuals born in such country and resident in continental United States in 1890, as estimated by such officials jointly, shall be considered for the purposes of subdivision (a) of section 11 as having been determined by the United States census of 1890. In the case of a colony or dependency existing before 1890, but for which a separate enumeration was not made in the census of 1890 and which was not included in the enumeration for the country to which such colony or dependency belonged, or in the case of territory administered under a protectorate, the number of individuals born in such colony, dependency, or territory, and resident in continental United States in 1890, as estimated by such officials jointly, shall be considered for the purposes of subdivision (a) of section 11 as having been determined by the United States census of 1890 to have been born in the country to which such colony or dependency belonged or which administers such protectorate.

(c) In case of changes in political boundaries in foreign countries occurring subsequent to 1890 and resulting in the creation of new countries, the Governments of which are recognized by the United States, or in the establishment of self-governing dominions, or in the transfer of territory from one country to another, such transfer being recognized by the United States, or in the surrender by one country of territory, the transfer of which to another country has not been recognized by the United States, or in the administration of territories under mandates, (1) such officials, jointly, shall estimate the number of individuals resident in continental United States in 1890 who were born within the area included in such new countries or self-governing dominions or in such territory so transferred or surrendered or administered under a mandate, and revise

(for the purposes of subdivision (a) of section 11) the population basis as to each country involved in such change of political boundary, and (2) if such changes in political boundaries occur after the determination provided for in subdivision (c) of section 11 has been proclaimed, such officials, jointly, shall revise such determination, but only so far as necessary to allot the quotas among the countries involved in such change of political boundary. For the purpose of such revision and for the purpose of determining the nationality of an immigrant, (A) aliens born in the area included in any such new country or self-governing dominion shall be considered as having been born in such country or dominion, and aliens born in any territory so transferred shall be considered as having been born in the country to which such territory was transferred, and (B) territory so surrendered or administered under a mandate shall be treated as a separate country. Such treatment of territory administered under a mandate shall not constitute consent by the United States to the proposed mandate where the United States has not consented in a treaty to the administration of the territory by a mandatory power.

(d) The statements, estimates, and revisions provided in this section shall be made annually, but for any fiscal year for which quotas are in effect as proclaimed under subdivision (e) of section 11, shall be made only (1) for the purpose of determining the nationality of immigrants seeking admission to the United States during such year, or (2) for the purposes of clause (2) of subdivision (c) of this section.

(e) Such officials shall, jointly, report annually to the President the quota of each nationality under subdivision (a) of section 11, together with the statements, estimates, and revisions provided for in this section. The President shall proclaim and make known the quotas so reported and thereafter such quotas shall continue, with the same effect as if specifically stated herein, for all fiscal years except those years for which quotas are in effect as proclaimed under subdivision (e) of section 11, and shall be final and conclusive for every purpose.

EXCLUSION FROM UNITED STATES.

SEC. 13. (a) No immigrant shall be admitted to the United States unless he (1) has an unexpired immigration visa or was born subsequent to the issuance of the immigration visa of the accompanying parent, (2) is of the nationality specified in the visa in the immigration visa, (3) is a non-quota immigrant if specified in the visa in the immigration visa as such, and (4) is otherwise admissible under the immigration laws.

(b) In such classes of cases and under such conditions as may be by regulations prescribed immigrants who have been legally admitted to the United States and who depart therefrom temporarily may be admitted to the United States without being required to obtain an immigration visa.

(c) No alien ineligible to citizenship shall be admitted to the United States unless such alien (1) is admissible as a non-quota immigrant under the provisions of subdivision (b), (d), or (e) of section 4, or (2) is the wife, or the unmarried child under 18 years of age, of an immigrant admissible under such subdivision (d), and is accompanying or following to join him, or (3) is not an immigrant as defined in section 3.

(d) The Secretary of Labor may admit to the United States any otherwise admissible immigrant not admissible under clause (2) or (3) of subdivision (a) of this section, if satisfied that such inadmissibility was not known to, and could not have been ascertained by the exercise of reasonable diligence by, such immigrant prior to the departure of the vessel from the last port outside the United States and outside foreign contiguous territory, or, in the case of an immigrant coming from foreign contiguous territory, prior to the application of the immigrant for admission.

(e) No quota immigrant shall be admitted under subdivision (d) if the entire number of immigration visas which may be issued to quota immigrants of the same nationality for the fiscal year has already been issued. If such entire number of immigration visas has not been issued, then the Secretary of State, upon the admission of a

quota immigrant under subdivision (d), shall reduce by one the number of immigration visas which may be issued to quota immigrants of the same nationality during the fiscal year in which such immigrant is admitted; but if the Secretary of State finds that it will not be practicable to make such reduction before the end of such fiscal year, then such immigrant shall not be admitted.

(f) Nothing in this section shall authorize the remission or refunding of a fine, liability to which has accrued under section 16.

DEPORTATION.

SEC. 14. Any alien who at any time after entering the United States is found to have been at the time of entry not entitled under this Act to enter the United States, or to have remained therein for a longer time than permitted under this Act or regulations made thereunder, shall be taken into custody and deported in the same manner as provided for in sections 19 and 20 of the Immigration Act of 1917: *Provided,* That the Secretary of Labor may, under such conditions and restrictions as to support and care as he may deem necessary, permit permanently to remain in the United States, any alien child who, when under sixteen years of age was heretofore temporarily admitted to the United States and who is now within the United States and either of whose parents is a citizen of the United States.

MAINTENANCE OF EXEMPT STATUS.

SEC. 15. The admission to the United States of an alien excepted from the class of immigrants by clause (2), (3), (4), (5), or (6) of section 3, or declared to be a non-quota immigrant by subdivision (e) of section 4, shall be for such time as may be by regulations prescribed, and under such conditions as may be by regulations prescribed (including, when deemed necessary for the classes mentioned in clauses (2), (3), (4), or (6) of section 3, the giving of bond with sufficient surety, in such sum and containing such conditions as may be by regulations prescribed) to insure that, at the expiration of such time or upon failure to maintain

the status under which admitted, he will depart from the United States.

PENALTY FOR ILLEGAL TRANSPORTATION.

SEC. 16. (a) It shall be unlawful for any person, including any transportation company, or the owner, master, agent, charterer, or consignee of any vessel, to bring to the United States by water from any place outside thereof (other than foreign contiguous territory) (1) any immigrant who does not have an unexpired immigration visa, or (2) any quota immigrant having an immigration visa the visa in which specifies him as a non-quota immigrant.

(b) If it appears to the satisfaction of the Secretary of Labor that any immigrant has been so brought, such person, or transportation company, or the master, agent, owner, charterer, or consignee of any such vessel, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000 for each immigrant so brought, and in addition a sum equal to that paid by such immigrant for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, such latter sum to be delivered by the collector of customs to the immigrant on whose account assessed. No vessel shall be granted clearance pending the determination of the liability to the payment of such sums, or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs.

(c) Such sums shall not be remitted or refunded, unless it appears to the satisfaction of the Secretary of Labor that such person, and the owner, master, agent, charterer, and consignee of the vessel, prior to the departure of the vessel from the last port outside the United States, did not know, and could not have ascertained by the exercise of reasonable diligence, (1) that the individual transported was an immigrant, if the fine was imposed for bringing an immigrant without an unexpired immigration visa, or (2)

that the individual transported was a quota immigrant, if the fine was imposed for bringing a quota immigrant the visa in whose immigration visa specified him as being a non-quota immigrant.

ENTRY FROM FOREIGN CONTIGUOUS TERRITORY.

SEC. 17. The Commissioner General, with the approval of the Secretary of Labor, shall have power to enter into contracts with transportation lines for the entry and inspection of aliens coming to the United States from or through foreign contiguous territory. In prescribing rules and regulations and making contracts for the entry and inspection of aliens applying for admission from or through foreign contiguous territory due care shall be exercised to avoid any discriminatory action in favor of transportation companies transporting to such territory aliens destined to the United States, and all such transportation companies shall be required, as a condition precedent to the inspection or examination under such rules and contracts at the ports of such contiguous territory of aliens brought thereto by them, to submit to and comply with all the requirements of this Act which would apply were they bringing such aliens directly to ports of the United States. After this section takes effect no alien applying for admission from or through foreign contiguous territory (except an alien previously lawfully admitted to the United States who is returning from a temporary visit to such territory) shall be permitted to enter the United States unless upon proving that he was brought to such territory by a transportation company which had submitted to and complied with all the requirements of this Act, or that he entered, or has resided in, such territory more than two years prior to the time of his application for admission to the United States.

UNUSED IMMIGRATION VISAS.

SEC. 18. If a quota immigrant of any nationality having an immigration visa is excluded from admission to the United States under the immigration laws and deported,

or does not apply for admission to the United States before the expiration of the validity of the immigration visa, or if an alien of any nationality having an immigration visa issued to him as a quota immigrant is found not to be a quota immigrant, no additional immigration visa shall be issued in lieu thereof to any other immigrant.

ALIEN SEAMEN.

SEC. 19. No alien seaman excluded from admission into the United States under the immigration laws and employed on board any vessel arriving in the United States from any place outside thereof, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulations as the Secretary of Labor may prescribe for the ultimate departure, removal, or deportation of such alien from the United States.

SEC. 20. (a) The owner, charterer, agent, consignee, or master of any vessel arriving in the United States from any place outside thereof who fails to detain on board any alien seaman employed on such vessel until the immigration officer in charge at the port of arrival has inspected such seaman (which inspection in all cases shall include a personal physical examination by the medical examiners), or who fails to detain such seaman on board after such inspection or to deport such seaman if required by such immigration officer or the Secretary of Labor to do so, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000 for each alien seaman in respect of whom such failure occurs. No vessel shall be granted clearance pending the determination of the liability to the payment of such fine, or while the fine remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs.

(b) Proof that an alien seaman did not appear upon the outgoing manifest of the vessel on which he arrived in the United States from any place outside thereof, or that he

was reported by the master of such vessel as a deserter, shall be prima facie evidence of a failure to detain or deport after requirement by the immigration officer or the Secretary of Labor.

(c) If the Secretary of Labor finds that deportation of the alien seaman on the vessel on which he arrived would cause undue hardship to such seaman he may cause him to be deported on another vessel at the expense of the vessel on which he arrived, and such vessel shall not be granted clearance until such expense has been paid or its payment guaranteed to the satisfaction of the Secretary of Labor.

(d) Section 32 of the Immigration Act of 1917 is repealed, but shall remain in force as to all vessels, their owners, agents, consignees, and masters, and as to all seamen, arriving in the United States prior to the enactment of this Act.

PREPARATION OF DOCUMENTS.

SEC. 21. (a) Permits issued under section 10 shall be printed on distinctive safety paper and shall be prepared and issued under regulations prescribed under this Act.

(b) The Public Printer is authorized to print for sale to the public by the Superintendent of Public Documents, upon prepayment, additional copies of blank forms of manifests and crew lists to be prescribed by the Secretary of Labor pursuant to the provisions of sections 12, 13, 14, and 36 of the Immigration Act of 1917.

OFFENSES IN CONNECTION WITH DOCUMENTS.

SEC. 22. (a) Any person who knowingly (1) forges, counterfeits, alters, or falsely makes any immigration visa or permit, or (2) utters, uses, attempts to use, possesses, obtains, accepts, or receives any immigration visa or permit, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or who, except under direction of the Secretary of Labor or other proper officer, knowingly (3) possesses any blank permit, (4) en-

graves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, (5) makes any print, photograph, or impression in the likeness of any immigration visa or permit, or (6) has in his possession a distinctive paper which has been adopted by the Secretary of Labor for the printing of immigration visas or permits, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both.

(b) Any individual who (1) when applying for an immigration visa or permit, or for admission to the United States, personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name, or (2) sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, an immigration visa or permit, to any person not authorized by law to receive such document, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both.

(c) Whoever knowingly makes under oath any false statement in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both.

BURDEN OF PROOF.

SEC. 23. Whenever any alien attempts to enter the United States the burden of proof shall be upon such alien to establish that he is not subject to exclusion under any provision of the immigration laws; and in any deportation proceeding against any alien the burden of proof shall be upon such alien to show that he entered the United States lawfully, and the time, place, and manner of such entry into the United States, but in presenting such proof he shall be entitled to the production of his immigration visa, if any, or of other documents concerning such entry, in the custody of the Department of Labor.

RULES AND REGULATIONS.

SEC. 24. The Commissioner General, with the approval of the Secretary of Labor, shall prescribe rules and regulations for the enforcement of the provisions of this Act; but all such rules and regulations, in so far as they relate to the administration of this Act by consular officers, shall be prescribed by the Secretary of State on the recommendation of the Secretary of Labor.

ACT TO BE IN ADDITION TO IMMIGRATION LAWS.

SEC. 25. The provisions of this Act are in addition to and not in substitution for the provisions of the immigration laws, and shall be enforced as a part of such laws, and all the penal or other provisions of such laws, not inapplicable, shall apply to and be enforced in connection with the provisions of this Act. An alien, although admissible under the provisions of this Act, shall not be admitted to the United States if he is excluded by any provision of the immigration laws other than this Act, and an alien, although admissible under the provisions of the immigration laws other than this Act, shall not be admitted to the United States if he is excluded by any provision of this Act.

STEAMSHIP FINES UNDER 1917 ACT.

SEC. 26. Section 9 of the Immigration Act of 1917 is amended to read as follows:

"SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel to bring to the United States either from a foreign country or any insular possession of the United States any alien afflicted with idiocy, insanity, imbecility, feeble-mindedness, epilepsy, constitutional psychopathic inferiority, chronic alcoholism, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Labor that any alien so brought to the United States was afflicted with any

of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000, and in addition a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival for each and every violation of the provisions of this section, such latter sum to be delivered by the collector of customs to the alien on whose account assessed. It shall also be unlawful for any such person to bring to any port of the United States any alien afflicted with any mental defect other than those above specifically named, or physical defect of a nature which may affect his ability to earn a living, as contemplated in section 3 of this Act, and if it shall appear to the satisfaction of the Secretary of Labor that any alien so brought to the United States was so afflicted at the time of foreign embarkation, and that the existence of such mental or physical defect might have been detected by means of a competent medical examination at such time, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $250, and in addition a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, for each and every violation of this provision, such latter sum to be delivered by the collector of customs to the alien for whose account assessed. It shall also be unlawful for any such person to bring to any port of the United States any alien who is excluded by the provisions of section 3 of this Act because unable to read, or who is excluded by the terms of section 3 of this Act as a native of that portion of the Continent of Asia and the islands adjacent thereto described in said section, and if it shall appear to the satisfaction of the Secretary of Labor that these disabilities might have been detected by the exercise of reasonable precaution prior to the departure of such aliens

from a foreign port, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000, and in addition a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, for each and every violation of this provision, such latter sum to be delivered by the collector of customs to the alien on whose account assessed.

"If a fine is imposed under this section for the bringing of an alien to the United States, and if such alien is accompanied by another alien who is excluded from admission by the last proviso of section 18 of this Act, the person liable for such fine shall pay to the collector of customs, in addition to such fine but as a part thereof, a sum equal to that paid by such accompanying alien for his transportation from his initial point of departure indicated in his ticket, to the point of arrival, such sum to be delivered by the collector of customs to the accompanying alien when deported. And no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fines, or while the fines remain unpaid, nor shall such fines be remitted or refunded: *Provided,* That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fines or of a bond with sufficient surety to secure the payment thereof, approved by the collector of customs: *Provided further,* That nothing contained in this section shall be construed to subject transportation companies to a fine for bringing to ports of the United States aliens who are by any of the provisos or exceptions to section 3 of this Act exempted from the excluding provisions of said section."

SEC. 27. Section 10 of the Immigration Act of 1917 is amended to read as follows:

"SEC. 10. (a) That it shall be the duty of every person, including owners, masters, officers, and agents of vessels of transportation lines, or international bridges or toll roads, other than railway lines which may enter into a contract as provided in section 23, bringing an alien to, or providing a means for an alien to come to, the United States, to pre-

vent the landing of such alien in the United States at any time or place other than as designated by the immigration officers. Any such person, owner, master, officer, or agent who fails to comply with the foregoing requirements shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine in each case of not less than $200 nor more than $1,000, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; or, if in the opinion of the Secretary of Labor, it is impracticable or inconvenient to prosecute the person, owner, master, officer, or agent of any such vessel, such person, owner, master, officer, or agent shall be liable to a penalty of $1,000, which shall be a lien upon the vessel whose owner, master, officer, or agent violates the provisions of this section, and such vessel shall be libeled therefor in the appropriate United States court.

"(b) Proof that the alien failed to present himself at the time and place designated by the immigration officers shall be prima facie evidence that such alien has landed in the United States at a time or place other than as designated by the immigration officers."

GENERAL DEFINITIONS.

SEC. 28. As used in this Act—

(a) The term "United States," when used in a geographical sense, means the States, the Territories of Alaska and Hawaii, the District of Columbia, Porto Rico, and the Virgin Islands; and the term "continental United States" means the States and the District of Columbia;

(b) The term "alien" includes any individual not a native-born or naturalized citizen of the United States, but this definition shall not be held to include Indians of the United States not taxed, nor citizens of the islands under the jurisdiction of the United States;

(c) The term "ineligible to citizenship," when used in reference to any individual, includes an individual who is debarred from becoming a citizen of the United States under section 2169 of the Revised Statutes, or under section 14 of the Act entitled "An Act to execute certain treaty

stipulations relating to Chinese," approved May 6, 1882, or under section 1996, 1997, or 1998 of the Revised Statutes, as amended, or under section 2 of the Act entitled "An Act to authorize the President to increase temporarily the Military Establishment of the United States," approved May 18, 1917, as amended, or under law amendatory of, supplementary to, or in substitution for, any of such sections;

(d) The term "immigration visa" means an immigration visa issued by a consular officer under the provisions of this Act;

(e) The term "consular officer" means any consular or diplomatic officer of the United States designated, under regulations prescribed under this Act, for the purpose of issuing immigration visas under this Act. In case of the Canal Zone and the insular possessions of the United States the term "consular officer" (except as used in section 24) means an officer designated by the President, or by his authority, for the purpose of issuing immigration visas under this Act;

(f) The term "Immigration Act of 1917" means the Act of February 5, 1917, entitled "An Act to regulate the immigration of aliens to, and the residence of aliens in, the United States";

(g) The term "immigration laws" includes such Act, this Act, and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, or expulsion of aliens;

(h) The term "person" includes individuals, partnerships, corporations, and associations;

(i) The term "Commissioner General" means the Commissioner General of Immigration;

(j) The term "application for admission" has reference to the application for admission to the United States and not to the application for the issuance of the immigration visa;

(k) The term "permit" means a permit issued under section 10;

(l) The term "unmarried," when used in reference to any individual as of any time, means an individual who at

such time is not married, whether or not previously married;

(m) The terms "child," "father," and "mother," do not include a child or parent by adoption unless the adoption took place before January 1, 1924;

(n) The terms "wife" and "husband" do not include a wife or husband by reason of a proxy or picture marriage.

AUTHORIZATION OF APPROPRIATION.

SEC. 29. The appropriation of such sums as may be necessary for the enforcement of this Act is hereby authorized.

ACT OF MAY 19, 1921.

SEC. 30. The Act entitled "An Act to limit the immigration of aliens into the United States," approved May 19, 1921, as amended and extended, shall, notwithstanding its expiration on June 30, 1924, remain in force thereafter for the imposition, collection, and enforcement of all penalties that may have accrued thereunder, and any alien who prior to July 1, 1924, may have entered the United States in violation of such Act or regulations made thereunder may be deported in the same manner as if such Act had not expired.

TIME OF TAKING EFFECT.

SEC. 31. (a) Sections 2, 8, 13, 14, 15, and 16, and subdivision (f) of section 11, shall take effect on July 1, 1924, except that immigration visas and permits may be issued prior to that date, which shall not be valid for admission to the United States before July 1, 1924. In the case of quota immigrants of any nationality, the number of immigration visas to be issued prior to July 1, 1924, shall not be in excess of 10 per centum of the quota for such nationality, and the number of immigration visas so issued shall be deducted from the number which may be issued during the month of July, 1924. In the case of immigration visas issued before July 1, 1924, the four-month period referred to in subdivision (c) of section 2 shall begin to run on July 1, 1924, instead of at the time of the issuance of the immigration visa.

(b) The remainder of this Act shall take effect upon its enactment.

(c) If any alien arrives in the United States before July 1, 1924, his right to admission shall be determined without regard to the provisions of this Act, except section 23.

SAVING CLAUSE IN EVENT OF UNCONSTITUTIONALITY.

SEC. 32. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Approved, May 26, 1924.

EXECUTIVE ORDER NO. 4049.—DOCUMENTS REQUIRED OF ALIENS ENTERING THE UNITED STATES ON AIRSHIPS

By virtue of the authority vested in me by the immigration act of 1924, and by the act of Congress approved May 22, 1918, entitled "An act to prevent in time of war departure from and entry into the United States contrary to the public safety," as extended by the act of Congress of March 2, 1921, entitled "An act making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1922," I hereby prescribe the following regulations governing the entry into the United States of aliens on airships:

1. Members of crews of airships arriving in the United States who intend to leave the United States on the same airships on which they arrive, or to leave otherwise immediately or shortly after arrival, will not be required to submit individual passports or other documents, provided they are included in crew lists visaed by consular officers of the United States in accordance with the requirements of the Executive Order of June 14, 1924, or with such orders on the subject as may from time to time be issued.

2. Alien passengers arriving in the United States on airships will be required to submit the same documents which

are required of alien passengers arriving otherwise in the United States.

3. In cases of airships coming to the United States from foreign countries the Secretary of State should be informed in advance of the date and place of the expected arrival, in order that the Secretary of the Treasury and the Secretary of Labor may be advised.

The Secretary of State and the Secretary of Labor are hereby authorized to make such additional rules and regulations, not inconsistant with this order, as may be deemed necessary for carrying out the provisions of this order and the statutes mentioned herein.

This order is supplementary to the Executive order of June 14, 1924, concerning "Documents required of aliens entering the United States," and is to take effect immediately.

CALVIN COOLIDGE.

THE WHITE HOUSE.
July 14, 1924.

EXECUTIVE ORDER NO. 4125.—DOCUMENTS REQUIRED OF ALIENS ENTERING THE UNITED STATES

By virtue of the authority vested in me by the act of Congress approved May 22, 1918, entitled "An act to prevent in time of war departure from and entry into the United States contrary to the public safety," as extended by the act of Congress of March 2, 1921, entitled "An act making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1922," and with reference to the act of Congress of May 26, 1924, known as the "immigration act of 1924," I hereby prescribe the following regulations governing the entry of aliens into the United States:

1. *Immigrants.*—They must present immigration visas, quota or nonquota, in accordance with the requirements of the immigration act of 1924, except—

(1) Children born subsequent to the issuance of the immigration visa of the accompanying parent (sec. 13 (a) (1), immigration act of 1924); such children are not required to present documents of any kind.

(2) Aliens who have previously been admitted legally into the United States, have departed therefrom, and have returned within six months. Of this class—

(*a*) Those who have not proceeded to countries other than Canada, Newfoundland, St. Pierre, Miquelon, Bermuda, Mexico, and islands included in the Bahama and Greater Antilles groups, are not required to present documents of any kind.

(*b*) Those who have proceeded to countries other than those named in (*a*) may present, in lieu of immigration visas, permits to reenter, issued under the provision of section 10 of the act of 1924.

With reference to section 28(e) of the immigration act of 1924, the executive secretary of the Panama Canal, Balboa Heights, Canal Zone, is hereby authorized to issue immigration visas to aliens coming to the United States from the Canal Zone; the collector of customs of the Philippine Islands is hereby authorized to issue immigration visas to aliens coming to the United States from the Philippine Islands; the Governor of American Samoa is hereby authorized to issue immigration visas to aliens coming to the United States from American Samoa; and the Governor of Guam is hereby authorized to issue immigration visas to aliens coming to the United States from Guam.

2. *Nonimmigrants.*—With the exceptions hereinafter specified, they must present passports or official documents in the nature of passports issued by the governments of the countries to which they owe allegiance, duly visaed by consular officers of the United States.

Exceptions.—(1) Persons in transit through the United States to a foreign destination may present transit certificates according to regulations prescribed by the Secretary of State.

(2) Aliens who are passengers on vessels bound for foreign ports and touching at ports of the United States may land temporarily, under regulations prescribed by the Department of Labor, without documents of any kind.

(3) Wives and children under 16 years of age accompanying their husbands or parents. They are not required to present separate passports if they are mentioned in the

passports of their husbands or parents and their photographs are attached thereto.

(4) Citizens of St. Pierre and Miquelon and French citizens domiciled therein; citizens of Canada, Newfoundland, Bermuda, the Bahamas, and British possessions in the Greater Antilles, and British subjects domiciled therein; citizens of Mexico, Cuba, Haiti, San Domingo. Such persons may enter the United States temporarily from any of the countries named in this paragraph, or pass in transit through the United States from any such country to any other such country, without documents of any kind.

(5) Seamen: Masters of vessels of all nationalities sailing for a port of the United States must submit for visa a list of all the alien members of the vessel's crew to the American consular officer at the port from which the vessel commences its voyage. If there is no American consular officer stationed at that port, the crew list should be submitted at the first port of call (if the vessel touches at any other port) where an American consular officer is located. This does not refer to consular agents, who are not authorized to visa crew lists. However, this paragraph has no application to members of crews of vessels sailing between ports of the United States and ports of Canada, Newfoundland, St. Pierre, and Miquelon, and not touching at ports of other countries. Such persons are not required to be documented.

When a vessel sails from a port where no American consul is stationed, but which is within a few hours' reach by mail of an American consulate, so that unreasonable delay and serious loss would not result from referring the crew list to such consulate, it should be referred thereto for visa.

If an alien seaman whose name is not included in a visaed crew list arrives at a port of the United States he shall not be allowed to land except upon the permission of the Secretary of State.

(6) Aliens making round-trip cruises from American ports without transshipment from the original vessel to another one while en route, provided the original contract for passage calls for transportation from an American port

to the ports included in the cruise, and return to either the original or another American port, require no visas for reentry into the United States.

(7) Aliens of no nationality, and those who, when they apply for visas, are outside of the territories of the countries to which they owe allegiance and who, for any reason, are unable to obtain passports or documents in the nature of passports issued by the governments of such countries, and aliens bearing passports issued by governments not recognized by the United States. They may enter the United States with documents showing their origin and identity, visaed by consuls, under regulations prescribed by the Secretary of State.

The definitions contained in section 28 of the immigration act of 1924 shall be regarded as applicable to this order.

The Secretary of State and the Secretary of Labor are hereby authorized to make such additional rules and regulations, not inconsistent with this order, as may be deemed necessary for carrying out the provisions of this order and the statutes mentioned herein.

This order shall take effect February 1, 1925, and shall supersede the Executive order of August 8, 1918, entitled "Rules and Regulations Governing the Issuance of Permits to Enter and Leave the United States," and all subsequent Executive orders amendatory thereof, including the Executive order of June 14, 1924, entitled "Documents Required of Aliens Entering the United States," but excluding the Executive order of July 14, 1924, entitled, "Documents required of Aliens entering the United States on Airships."

CALVIN COOLIDGE.

THE WHITE HOUSE.
January 12, 1925.

Subdivision (d) of section 4 of the Immigration Act of 1924 is amended by adding at the end thereof the following: "an immigrant arriving in the United States before July 1, 1927, who is the wife, or the unmarried child under 18 years of age, of an alien resident in the United States who entered the United States prior to July 1, 1924, and

who continuously for at least two years immediately preceding the time of his admission to the United States for permanent residence was, and who entered the United States solely for the purpose of carrying on the vocation of minister of any religious denomination or professor of a college, academy, seminary, or university, if such immigrant is following to join such alien; or"

SEC. 2. Despite the provisions of the Immigration Act of 1924, the Secretary of Labor is authorized to admit to the United States for permanent residence any otherwise admissible alien who (1) is the wife or the unmarried child under 18 years of age of an alien resident of the United States who entered the United States prior to July 1, 1924, and who continuously for a least two years immediately preceding the time of his admission to the United States for permanent residence was, and who entered the United States solely for the purpose of, carrying on the vocation of minister of any religious denomination or professor of a college, academy, seminary, or university, and (2) who arrived at a United States port of entry between May 26, 1924, and July 1, 1924, and were thereafter temporarily admitted.

Approved July 3, 1926.

AN ACT TO ADMIT TO THE UNITED STATES, AND TO EXTEND NATURALIZATION PRIVILEGES TO, ALIEN VETERANS OF THE WORLD WAR.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) as used in this Act, the term "alien veteran" means an individual, a member of the military or naval forces of the United States at any time after April 5, 1917, and before November 12, 1918, who is now an alien not ineligible to citizenship; but does not include (1) any individual at any time during such period or thereafter separated from such forces under other than honorable conditions, (2) any conscientious objector who performed no military duty whatever or refused to wear the uniform, or (3) any alien at any time during such period or there-

after discharged from the military or naval forces on account of his alienage.

(b) Terms defined in the Immigration Act of 1924 shall, when used in this Act, have the meaning assigned to such terms in that Act.

SEC. 2. An alien veteran shall for the purposes of the Immigration Act of 1924 be considered as a nonquota immigrant, but shall be subject to all the other provisions of that Act and of the immigration laws, except that—

(a) He shall not be subject to the head tax imposed by section 2 of the Immigration Act of 1917;

(b) He shall not be required to pay any fee under section 2 or section 7 of the Immigration Act of 1924;

(c) If otherwise admissible, he shall not be excluded under section 3 of the Immigration Act of 1917, unless excluded under the provisions of that section relating to—

(1) Persons afflicted with a loathsome or dangerous contagious disease, except tuberculosis in any form;

(2) Polygamy;

(3) Prostitutes, procurers, or other like immoral persons;

(4) Contract laborers;

(5) Persons previously deported;

(6) Persons convicted of crime.

SEC. 3. The unmarried child under eighteen years of age, the wife, or the husband, of an alien veteran shall, for the purposes of the Immigration Act of 1924, be considered as a nonquota immigrant when accompanying or following within six months to join him, but shall be subject to all the other provisions of that Act and of the immigration laws.

SEC. 4. The foregoing provisions of this Act shall not apply to any alien unless the immigration visa is issued to him before the expiration of one year after the enactment of this Act.

SEC. 5. An alien veteran admitted to the United States under this Act shall not be subject to deportation on the ground that he has become a public charge.

SEC. 6. Nothing in the immigration laws shall be construed as subjecting any person to a fine for bringing to a port of the United States an alien veteran who is admissible

under the terms of this Act, even though such alien would be subject to exclusion if this Act had not been enacted.

SEC. 7. An alien veteran shall, if residing in the United States, be entitled, at any time within two years after the enactment of this Act, to naturalization upon the same terms, conditions, and exemptions which would have been accorded to such alien if he had petitioned before the armistice of the World War, except that such alien shall be required to appear and file his petition in person and to take the prescribed oath of allegiance in open court.

Approved, May 26, 1926.

PART 3

EXCLUSION AND DEPORTATION

General Principles

Since the enactment of the first quota law in May, 1921, immigration is controlled at the source; and the American Consular Offices in foreign countries make it reasonably certain that the immigrant will not be excluded upon arrival in this country.

When an American consul in a foreign country grants a visa, the alien thereby acquires no vested right such as will admit him to this country by the mere presentation of his visaed passport upon arrival. Under the law, the admissibility of aliens depends upon the situation at the time of the arrival of the immigrant. (United States *v.* Commissioner of Immigration, 278 F. 564.) Therefore, all passports visaed by the American Consular Offices in foreign countries, are of no force or effect if the alien does not meet the requirements of the law upon arrival in this country. (Ex parte Dang Foo, 6 F. (2d), 171.) Affidavits are not the equivalent of passports. (Takeyo Koyama *v.* Burnett 8 F. (2d) 940.)

It is to be kept in mind that the power to admit aliens into, or exclude them from, this country is not vested in the judicial department of the government, but is in its political departments. It is to be exercised by the executive authority in the manner prescribed by Congress, except in so far as the judicial department is authorized to intervene. Congress has entrusted to the administrative officers of the government the final determination of the facts upon which the right of the alien to enter depends, and no judicial tribunal can re-examine the evidence on which the administrative officers act, and cannot controvert its sufficiency unless expressly authorized to do so by law. (Fong Yue Ting *v.* United States, 149 U. S. 698.)

The supervision of the admission of aliens into the United States has been entrusted by Congress to the Department of Labor charged with the enforcement of our immigration laws. The execution of these laws has been committed to immigration inspectors acting under authority of the Commissioner-General of Immigration who performs all his duties under the direction of the Secretary of Labor.

The Special Board of Inquiry determines the weight and consideration to be given to documents presented by the alien. (United States ex rel. Smith *v.* Curran, 12 F. (2d) 636.)

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. (United States Constitution Fourteenth Amendment; United States *v.* Wong Kim Ark, 169 U. S. 649.)

An alien is one born out of the jurisdiction of the United States and who has not been naturalized under the constitution and laws of the United States. (Low Wah Suey *v.* Backus, 225 U. S. 460.)

Citizens of the Philippine Islands, Porto Rico, and any other place or territory now subject to the jurisdiction of the United States are not alien immigrants within the meaning or intent of our immigration laws upon their arrival at the ports of our mainland. (Gonzales *v.* Williams, 192 U. S. 1.)

An alien, as well as a citizen, is protected by the prohibition of deprivation of life, liberty, or property, without due process and the equal protection of the law, without regard to any differences of race, color, or nationality. (Yick Wo *v.* Hopkins, 118 U. S. 356.)

When an alien is deprived of his liberty, or is about to be deported without a full and fair hearing, or there has been abuse of discretion or arbitrary action by the immigration authorities, then the courts have the power to issue a writ of habeas corpus, and relieve him. (The Japanese Immigrant Case, 189 U. S. 86; Chin Yow *v.* United States, 208 U. S. 8; Low Wah Suey *v.* Backus, 225 U. S. 460.)

Where an alien is excluded and he claims United States

citizenship by birth, and produces a birth certificate, then he must present sufficient evidence to establish his identity as the person named in such certificate. Where there are discrepancies in the alien's own story that seem to justify a doubt whether the person named in the certificate was the same person as the alien, then the identity has not been established. (United States *v.* Curren, 2 F. (2d) 179; Lee Tuck Gan et al. *v.* Johnson, 3 F. (2d) 804.)

It is as much of an offense under the immigration laws for an alien who is legally entitled to enter, to make such entry clandestinely and at a place other than a port of entry, thereby escaping inspection, as it is for a non-admissible alien to attempt such entry. (Sotorios Targakis *v.* United States, 12 F. (2d) 498.)

If an alien, while testifying under oath to tell the truth for the purpose of gaining admission into the United States, knowingly gives false testimony, he is denied admission for the reason that he has committed a crime involving moral turpitude, to wit: perjury; and the decision of the immigration officers is final if that decision was reached after a hearing in good faith however summary in form. (Chin Wow *v.* United States, 208 U. S. 8; Ex parte Yoshimasa Nomura, 297 F. 191.)

Sec. 5 of the act of March, 1907, provides: "A child born without the United States of alien parents shall be deemed a citizen of the United States by virtue of the naturalization or resumption of American citizenship of the parent, provided that such naturalization or resumption takes place during the minority of such child; and provided further, that the citizenship of such minor child shall begin at the time that such minor child begins to reside permanently in the United States."

Therefore, the minor child of a naturalized citizen of the United States, is not relieved of any requirements imposed upon an alien under the immigration act when that child applies for admission into the United States, for the citizenship of the minor child does not begin until he shall permanently reside in the United States.

On September 22, 1922, the Cable act took effect. Sec. 2 of the act contains the following:

"That any woman who marries a citizen of the United States after the passage of this Act, or any woman whose husband is naturalized after the passage of this Act, shall not become a citizen of the United States by reason of such marriage or naturalization; but, if eligible to citizenship, she may be naturalized upon full and complete compliance with all requirements of the naturalization laws." Excepting that no declaration of intention shall be required, and only one year of residence within the state or territory immediately preceding the filing of the petition shall be required in lieu of the five-year period of residence.

Where an alien woman can produce satisfactory evidence that she had entered into a common law marriage with an American citizen, and they began to live as man and wife before the Cable act took effect, then the wife became an American citizen by reason of such marriage and cannot be deported. (United States *v.* Dorto, 5 F. (2d), 596.)

If the husband was naturalized after September 22, 1922, and while his wife was not within the limits and jurisdiction of the United States, then the wife is not permitted to enter the United States if upon her arrival she is found to be afflicted with an excludable disease or is otherwise physically defective; for Congress did not intend, by the act of February 5, 1917, to open the doors to every wife of a naturalized citizen, regardless of her mental, moral, or physical condition. (United States *v.* Curran, 9 F. (2d) 900.)

When a native-born citizen of the United States expatriates himself by becoming a subject of a foreign nation and then attempts to return to the United States he is considered an alien within the meaning of the immigration acts of 1917 and 1924, as though he is coming to this country for the first time. (Reynolds *v.* Haskins, 8 F. (2d) 473.)

Those who had no right to enter this country, who were not admissible under the law, who ought to have been excluded but who have entered the country, or are found therein, in violation of law, and those whose entry, or whose presence here, was from the beginning unlawful, all such, on the warrant of the Secretary of Labor, may be taken

into custody and deported within five years from the date of arrival at port. The burden rests on the alien to establish his right to remain. Deportation proceedings must actually begin within the five years from the date of the last entry. (Woo Shing *v.* U. S. 282 F. 498.)

Those whose admission into the United States was lawful, against whose status, at that time, physically, mentally, or morally, the law could raise no objection, but whose subsequent conduct was such as to forfeit their right, under the law, to remain, all such, on the warrant of the Secretary of Labor, may be taken into custody and deported within five years from the date when the offense was committed, or the conditions were found to exist, which forfeited the right of the alien to remain and subjected him to deportation as a result. Under the presumption of innocence which exists in favor of the alien and the due process clause of the Constitution, the burden rests on the state or government which in some formal proceeding, criminal or otherwise, undertakes to establish the fact. Deportation proceedings must actually begin within the five years. (United States *v.* Todd, 289 F. 60; 297 F. 385; Nocchi *v.* Johnson, 6 F. (2d) 302. But see Hughes *v.* Tropello, 296 F. 306, for contrary opinion as to limitation of time.)

Where an alien enters this country more than once, the last entry is to be considered as the one from which the statute of limitations, as fixed in the immigration act of February 5, 1917, begins to run. (Lapina *v.* Williams, 232 U. S., 78; Lewis *v.* Frick, 233 U. S., 291.)

A deportation proceeding is not criminal, but civil, in its nature, and consequently an alien may not refuse to answer questions properly asked by an immigration inspector, designed to ascertain whether such alien is subject to deportation, when such refusal is based upon the sole ground that his answers to such questions will be incriminating evidence against himself, because they may result in his deportation. (Bilokumsky *v.* Tod, 263 U. S. 149; Mahler *v.* Eby, 264 U. S. 32; Rennie *v.* Brooks, 284 F. 908; Low Foon Yin *v.* United States, 145 F. 791, 76 C. C. A. 335, Ninth Circuit; Tom Wah *v.* United States, 163 F. 1008, 90

C. C. A. 178, Second Circuit; *In re* Chan Foo Lin, 243 F. 137, 156 C. C. A. 3, Sixth Circuit.)

When the right of exclusion exists, but the right is waived by the Department of Labor for any reason, and the alien is allowed to enter the country, whatever the conditions imposed, the case at once is taken out of the procedure for exclusion, and is governed by the procedure relating to the expulsion and deportation of an alien found in the United States contrary to law. (Hughes *v.* Tropello, 296 F. 307.)

Where there is evidence of an excludable defect, the courts have no power to review the decision of the appropriate officials acting under the statute. (U. S. *v.* Tod, 297 F. 385; 292 F. 243; Wallis *v.* United States, C. C. A. 273 F. 509; Feuerstein *v.* Tod, 296 F. 127.) A finding of fact by the executive department is conclusive. (United States *v.* Ju Toy, 198 U. S. 253.) The courts have no power to interfere unless there was either a denial of a fair hearing (Chin Yow *v.* United States, 208 U. S. 8), or a finding that was not supported by the evidence. Mere proof that decision rendered in deportation proceeding was wrong does not establish denial of fair hearing. (U. S. *v.* Hughes, 299 F. 99.) But where there is an application of an erroneous rule of law, the courts have jurisdiction. (Gegiow *v.* Uhl, 239 U. S. 3; Friedman v. Tod, 296 F. 888.)

It is settled that proceedings for the deportation of aliens under the immigration laws are not criminal proceedings. An alien seeking admission to the United States, who is denied the right to enter by the immigration officials, and who is detained by them for deportation, is not held for any crime or offense against the United States. (Fong Yue Ting *v.* United States, 149 U. S. 698; Carapa *v.* Curran, 297 F. 946.) The immigration laws do not give to the courts power to admit to bail aliens who are detained for deportation, pending court proceedings to determine the legality of the deportation order. (Carapa *v.* Curran, 297 F. 946; Ex parte Domingo Corypus, 6 F. (2d) 336.)

It is well settled that irregularities in the arrest of an alien will not justify his discharge from custody if it appears after a fair hearing that he is subject to deportation.

(Chun Shee *v.* Nagle, 9 F. (2d) 342; U. S. *v.* Williams, 200 F. 538, 118 C. C. A. 632; U. S. *v.* Uhl, 211 F. 628, 128 C. C. A. 560; Healy *v.* Bakus 221 F. 358, 137 C. C. A. 166.) And where some proof is offered by the immigration authorities, the order of deportation may not be interfered with. (Ex parte Turner et al, 10 F. (2d) 816.) But he cannot be deported on a charge other than that mentioned in the warrant of arrest and deportation (Smith *v.* Hays, 10 F. (2d) 145.)

In deportation proceedings where notice to the alien and his counsel has been given so that they may have the opportunity to be present at the hearing, and such alien and counsel do not appear, then the proceedings may continue and testimony may be taken in their absence. (Weinbrand *v.* Prentis, 4 F. (2d) 778.) Where the alien is not given a fair opportunity to be heard or to appear in defense of the charges then the courts will reverse an order for deportation. (Chin Yow *v.* United States, 208 U. S. 8; Whitfield *v.* Hanges, C. C. A. 222 F. 745; In re Chan Foo Lin, C. C. A. 243 F. 137.) The Secretary of Labor has the option as to the country for deportation. (Lazzaro *v.* Weedin, 4 F. (2d) 704; United States *v.* Testolini, 4 F. (2d) 76.)

When an alien has entered the United States lawfully and has continued to reside here for a number of years he is entitled to a hearing before deportation according to "the fundamental principles that inhere in due process of law." He shall be notified of the nature of the charges against him in time to meet them, and shall have an opportunity to cross-examine the witnesses against him, and to produce evidence and witnesses to refute them; and that the decision shall be governed by and based upon the evidence at the hearing. (McDonald *v.* Sin Tak Sam, 225 F. 710; Backus *v.* Owe Sam Goon, 235 F. 847; In re: Chan Foo Lin, 243 F. 137; Ex parte Radivoeff, 278 F. 227; Ungar *v.* Seaman, 4 F. (2d) 80.)

On questions whether the alien is guilty of the charges made against him in the warrant of arrest, the courts will not examine into conflicting evidence. (Nishimura Ekiu *v.* United States, 142 U. S. 651; Low Wah Suey *v.* Backus,

225 U. S. 460; Tang Tun *v.* Edsell, 223 U. S. 673; Lapina *v.* Williams, 232 U. S. 78; Lewis *v.* Frick, 233 U. S. 291; Svarney *v.* United States, 7 F. (2d) 515.)

Whether there is any substantial evidence presented at the hearing to support the charge is a question of law, reviewable by the court. (Whitfield *v.* Hanges, 222 F. 745, 138 C. C. A. 199.) Where substantial evidence is found, the alien must be deported. (Gambroulis *v.* Nash, 12 F. (2d) 49; Hays *v.* Sesto, 12 F. (2d) 698.) The province of the courts is merely to prevent the abuse of the extraordinary power over aliens given to the Secretary of Labor by the acts of Congress. (Kwock Jan Fat *v.* White, 253 U. S. 454.)

It must always be remembered that the admission of aliens to the United States is a privilege and not a right and that the procedure is regulated by statute. (United States *v.* Dunston, 297 F. 447.) However, it has never been the policy of this government to punish criminally aliens who remain here after the time for which they were admitted has expired, or who have entered unlawfully for the first time in contravention to our immigration laws. Deportation has been the only remedy. (Flora *v.* Rustad, 8 F. (2d) 335.)

When an immigrant is refused admission and held for deportation on the ground that he is likely to become a public charge, a court is without authority to release him on bond conditioned that he will not become such charge. (Wallis *v.* United States, 273 F. 509.)

A person likely to become a public charge at the time of admission is one whom it may be necessary to support at public expense by reason of poverty, insanity and poverty, disease and poverty, idiocy and poverty. (Wallis *v.* United States, 273 F. 509; ex parte Mitchell, 256 F. 229.) However, where the state receives from relatives adequate compensation for such support and care, the individual is not a public charge within the meaning of the immigration act. (Ex parte Kichmiriantz, 283 F. 697; In re: Keshishian, 299 F. 804; United States ex rel. Brugnoli *v.* Tod, 300 F. 913.)

A minor child is not subject to deportation as a public

charge where the parents are willing and able to and do support him. (Nocchi *v.* Johnson, 6 F. (2d) 1.) Where a child was an assisted immigrant, he must show affirmatively and satisfactorily that he will not become a public charge. (United States ex rel. Azizian *v.* Curran, 12 F. (2d) 502.)

The Immigration Act of February 5, 1917, is the controlling law. Immigration laws of 1921, 1922, and 1924 are in addition to and not in substitution for the act of 1917.

Section 3 of the Immigration Act of February 5, 1917, declares that among the classes of aliens excluded from admission into the United States are "persons of constitutional psychopathic inferiority." If an alien comes within section 3 as an insane person or a person of constitutional psychopathic inferiority, and is found within the United States as such within five years after his entry, and becomes a public charge from causes not affirmatively shown to have risen subsequent to landing, he is subject to deportation under the statute. If there is abundant evidence to support the finding of the Board of Special Inquiry and its conclusions as to the nature and cause of his insanity, the courts have no power to set aside such finding. (U. S. ex rel. La Reddola *v.* Tod, 299 F. 592; U. S. ex. rel. Furst *v.* Curran, 9 F. (2d) 921; U. S. ex rel. Haft *v.* Tod, 300 F. 918; Tullman *v.* Tod, 294 F. 87; and the very recent case of U. S. ex rel. Caspare Casimano, etc., *v.* Commissioner of Immigration, decided by the C. C. A. Second Circuit.)

Section 19 of the act declares that members of the classes excluded by law shall "be taken into custody and deported" at any time within five years after entry.

If there is sufficient evidence as to the alien's psychopathic inferiority produced before the Board of Special Inquiry, the courts will not disturb such finding. (Ng Fung *v.* White, 259 U. S. 276.) Where the board finds that the alien had an excluding physical defect, and there was evidence in support of such finding, then the courts are without power to review. (United States ex rel. Feuerstein *v.* Tod, C. C. A. 296 F. 127.) The only function of habeas corpus in such cases is to ascertain whether or not the

executive authorities have exceeded their jurisdiction. (United States ex rel. Singleton *v.* Tod, C. C. A. 290 F. 78.)

When an alien a short time after landing in this country becomes an inmate of an insane asylum, supported at public expense, he belongs to the class of aliens excluded from admission into the United States and shall "be taken into custody and deported." (United States ex rel. Bieloszycka *v.* Commissioner Immigration, 3 F. (2d) 551.) But there must be some previous history upon which to predicate the conclusion that the alien, at the time of entry, was a member of one or more of the classes excluded by law; and where the certificate of the physician does not, in any manner, disclose the condition of the alien at the time of entry, nor any facts upon which his opinion as an expert is based, or by virtue of which the physician arrived at the conclusion that the cause of the alien's psychosis could not have arisen subsequent to landing, then the alien is not subject to deportation. (United States ex rel. Brugnoli *v.* Tod, 300 F. 913 and 920.)

Where the testimony clearly shows that the alien had a fair trial and that the immigrant inspector had sufficient evidence upon which to find that he is a "person likely to become a public charge" then the alien must be deported. (Guimond *v.* Howes, 9 F. (2d) 412.)

Section 4, subdivision (d), of the Immigration Act of 1924 provides for the admission of those who seek to enter the United States as non-immigrants solely for the purpose of carrying on the vocation of professors of a college, academy, seminary, or university. But a mere teacher, instructor, or preceptor, whose business or occupation is to teach others, is not entitled to enter as a non-immigrant. (Jeu Jo Wan *v.* Nagle, 9 F. (2d) 309.)

The law defines the classes of aliens which shall be excluded from admission to the United States but provides that the exclusion shall not apply to persons having the status or occupations of "merchants." This means necessarily having the "status" at the time admission is sought, not a status to come or be established. The confounding of occupations, that of a salesman or manager with that of a merchant, cannot be accepted. A merchant is the owner of

the business; a salesman or manager a servant of it; and especially so under the immigration law. The policy of the law must be kept in mind; it is careful to distinguish the status of a merchant and those below that status. A merchant is fixed in the business while a salesman or manager is but an employee and may withdraw from his employment and become a competitor in the ranks of labor, using the word in the sense the law implies. So particular is the law in regard to its distinctions and policy that if a merchant descends from his status he shall be "deemed to be in the United States contrary to law and shall be subject to deportation." (Tulsidas *v.* Insular Collector, 262 U. S. 258; Tom Hong *v.* United States, 193 U. S. 517.) But see contrary opinion (C. C. A. Ninth Circuit, Wong Sun Fay *v.* United States, 13 F. (2d) 67.)

The act of 1917 contains the following provisions: "All aliens over sixteen years of age, physically capable of reading, who cannot read the English language, or some other language or dialect, including Hebrew or Yiddish, shall be excluded." The Commissioner General of Immigration is authorized, with the approval of the Secretary of Labor, to make rules and regulations for the enforcement of the law. Though the alien be under eighteen years of age and the child of an American citizen, he is excluded if he cannot pass the literacy test. (United States *v.* Curran, 7 F. (2d) 302.)

If an alien who has lawfully resided in the United States continuously for five years, leaves this country for the allowed period of not more than twelve months, he is exempted from the literacy test if he returns within that period. If he does not return within that period then, unless his time was properly extended by the American Consul, he is not relieved from the provisions of the literacy test regardless of the cause that prevented his return in time. (Mototaro Eguchi *v.* United States, 260 F. 144.) Separate visits to this country aggregating five years is not a "continuous residence" in the United States, such as will exempt him from exclusion as an illiterate alien. (United States *v.* Curran, 11 F. (2d) 468.) Residence in the United States must be continuous for five years, ex-

cepting a temporary leave by permission of the Department of Labor, in order to be relieved from the literacy test. (United States *v.* Curran, 299 F. 214.)

Where an alien, duly admitted, leaves the United States and remains away for a longer period than allowed by law, he is placed in the same class as an alien applying for admission who has never been in the United States. (Woo Shing *v.* U. S., 228 F. 498; United States ex rel. White *v* Hook, Warden, 166 F. 1007; United States ex rel. Ueberall *v.* Williams, 187 F. 470; Ex parte Pouliot, 196 F. 437.)

In order not to unduly limit the opportunities of alien seamen to leave the ship which brought them here, with or without the consent of its master, and in accordance with their contract of employment on it, a solution was sought by Congress. The Senate Report of the 64th Congress, volume II, first session, included the following:

"By allowing the admittedly difficult task of so enforcing the immigration and seamen's laws, respectively, as to avoid conflict, and at the same time to prevent the privileges accorded under the seamen's laws from being used as a means of violating the immigration statute to be accomplished by such appropriate and expedient regulations as might be necessary; it being realized that the details of this matter could not well be handled in a law, but must be worked out by the administrative officials carefully and adequately, especially as experience in the matter would probably demonstrate the necessity for modifying or extending the regulations from time to time, things which could not be accomplished if an attempt were made to cover the details of the matter in the statute itself." Regulations embodying these principles are contained in the Immigration Rules of the Department of Labor, dated July 1, 1925.

An alien who pretends to be a seaman or sailor but is not in fact either and who represents himself to be such may be arrested within three years of his landing for the purpose of bringing him before a board of special inquiry with a view to possible deportation. (Domenici *v.* Johnson, 10 F. (2d) 433.) This became necessary on account of a large number of aliens who otherwise could not have gotten into this country, succeeded in doing so because, coming

here as sailors, they had contrived to escape attention and once landed on our shores, remained here permanently. At first the immigration officials did not conceive it necessary to require a bond as a condition precedent to allowing a temporary landing, but their experience led them to a different conclusion, so that at present a bond may be required. (United States *v.* Stump, 287 F. 192.)

Rule 6, paragraph 3, subdivision (e), of the immigration rules of the Department of Labor, dated July 1, 1925, is as follows: "A bona fide alien seaman 'arriving' and seeking to enter the United States as an immigrant shall be subject to all the immigration laws, rules and regulations applicable to immigrants and shall be required to present to the proper immigration official at the port of arrival an immigration visa duly issued and authenticated by an American consular officer in the manner required by law."

Any such alien seaman who shall enter the United States without having fully complied with all the immigration laws, rules, and regulations, shall be deemed to be unlawfully in the United States, and shall, at any time within three years thereafter, be taken into custody and deported. (Domenici *v.* Johnson, 10 F. (2d) 433.) However, even during the first three years, the mere presence of a seaman who has entered illegally is not unconditionally illegal; there must be some independent ground for his exclusion under the general provisions of the Immigration act. (United States *v.* Curran, 11 F. (2d) 904.)

An alien seaman entering without certificate or visa, cannot evade the restrictions of the immigration laws by declaring his intention to become an American citizen, or by service in the United States Merchant Marine. (Ex parte Marchant, 3 F. (2d) 695.)

An alien seaman on an American vessel is regarded as an American seaman in the sense that he is under the protection, and subject to the laws, of the United States. (In re Ross, 140 U. S. 453.) Where an alien seaman who, in the course of his ordinary business as a seaman on a domestic vessel, is carried into foreign waters, he does not forfeit his right of residence in the United States, the place of his domicile, and from where he shipped. (Ex parte

T. Nagata, 11 F. (2d) 178; Weedin, *v.* Okada, 2 F. (2d) 321; in re Hersvik and Kongsvik, 1 F. (2d) 449.)

Who May Be Excluded

The immigration laws contain provisions designed to exclude from this country those whose records abroad are such as to warrant the inference that they are depraved and will continue to belong to the criminal classes; those who disbelieve in or are opposed to organized government, or who advocate or teach the unlawful destruction of property, and for many other reasons enumerated in the acts.

The act of February 5, 1917, provides for the denial of admission to the United States of all "persons who have been deported under any of the provisions thereof and who may again seek admission within one year from the date of such deportation, unless prior to their re-embarkation at the foreign port, or their attempt to be admitted from foreign contiguous territory, the Secretary of Labor shall have consented to their re-applying for their re-admission."

Section 4 of the act provides "that any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this Act, which relates to prostitutes, procurers, or other like immoral persons, attempt thereafter to return to or enter the United States, shall be deemed guilty of a misdemeanor."

On July 29, 1917, an alien was deported from the United States to Canada, on the charge that she had been found in the United States, connected with the management of a house of prostitution. On January 18, 1920, she unlawfully attempted to re-enter the United States from Canada; the Secretary of Labor not theretofore having consented to any application by her for admission into the United States. She was arrested, convicted, and sentenced to serve a term in jail for this offense and then deported. (Mills *v.* United States, 273 F. 625.) See also (Rodriguez *v.* Campbell, 8 F. (2d) 983).

* * * *

Two seamen who, coming from a proscribed area are not entitled to enter the United States other than for re-

shipment, were found on board a vessel entering New York harbor. The immigrant inspector directed the Master to detain them on board the ship. That officer disregarded the order, paid their wages and discharged them.

The Government brought suit in admiralty against the Steamship to recover the statutory penalties as provided in Section 33 of the Immigration Act.

The District Court, S. D. of New York found that it was the duty of the Master, after he had been so ordered, to withhold the seamen's pay until they had complied with departmental regulations with respect to reshipment, or until the seamen were delivered into the custody of the Immigration officials. The Court stated: "Under the Immigration Act, these men were absolutely barred from entry into the United States, unless it was their intention to reship, and unless suffering from disability entitling them to hospital treatment, and in such cases their landing would be subject to regulations promulgated by the Department of Labor. Being barred, the aliens were subject to Section 33, even though they were seamen on board an American vessel."

The Government was given a decree for $2,000. (The Limon, 14 F. (2d) 153.) See also The Breman, 18 F. (2d) 960.

* * * *

The Gottlieb Decision

A case that caused considerable confusion in the administration of the immigration laws was finally decided by the Supreme Court of the United States on May 26, 1924. This decision also extinguished the hopes of many who were prepared to come to this country on the strength of earlier decisions in this case rendered by the District Court and the Circuit Court of Appeals, which decisions were subsequently reversed by the Supreme Court of the United States.

A Jewish rabbi named Solomon Gottlieb arrived at the port of New York, N. Y., in October, 1920, leaving behind in Palestine his wife and their minor son. In December, 1921, the wife and minor son arrived at the port of New

York, N. Y., but were denied admission to the United States, the quota allowed to Palestine, their birthplace, having been exhausted before their arrival. By means of habeas corpus proceedings, the District Court sustained the writ and discharged the relators, holding that they were entitled to admission irrespective of quota limitations, as the wife and child of a minister, who was already here, pursuant to the act of May 19, 1921, as amended May 11, 1922.

Following is the opinion of the Supreme Court delivered by Mr. Justice Southerland: "The respondents are the wife and infant son of Solomon Gottlieb, a rabbi of a synagogue in New York City. They are natives of Palestine who sought admission to this country in Dec. 1921. After a hearing before the Board of Special Inquiry at Ellis Island, they were ordered deported, on the ground that the quota of immigrants entitled to be admitted had already been filled. Upon habeas corpus proceedings in the Federal Court for the Southern District of New York it was held they were entitled to admission, irrespective of quota limitations, as the wife and child of a minister, who was already here under § 2 (d) of the Act of May 19, 1921, c. 8, 42 Stat. 5, as amended May 11, 1922, c. 187, 42 Stat. 540. Thereupon they were ordered discharged. This judgment was affirmed by the Court of Appeals, (285 Fed. 295.)

"That Court reached its conclusion by considering section 3 of the act of 1917, c. 29, 39 Stat. 874, 875, in *pari materia* with section 2 (d) of the act of 1921. Section 3 of the earlier act enumerates various classes of aliens who are excluded from admission into the United States, among them all persons from certain Asiatic territory with specified exceptions. The act of 1921 as amended, is an act to limit the number of aliens who may be admitted under the immigration laws of the United States, and is declared to be 'in addition to and not in substitution for the provisions of the immigration laws.' Section 4, Section 2 (d), among other things, provides that when the maximum number of aliens of any nationality shall have been admitted, all others of such nationality applying during the same year shall be excluded, except as otherwise provided in the act.

"Following this, one of the provisos enumerates the

aliens who are thus excepted, among them, ministers of any religious denomination. Another proviso is: 'That in the enforcement of this Act preference shall be given so far as possible to the wives, parents, brothers, sisters, children under eighteen years of age, and fiancees, (1) of citizens of the United States, (2) of aliens now in the United States who have applied for citizenship in the manner provided by law, or (3) of persons eligible to United States citizenship who served in the military or naval forces of the United States,' etc.

"The court below, taking these various provisions together, held that under section 3 of the act of 1917, these respondents were entitled to admission.

"The lower court was right in holding that the acts are in *pari materia,* and that section 3 of the earlier act is still fully operative and may be considered as though it formed a part of the latter act. The question then is whether it includes aliens occupying the status of these respondents.

"The case, as the evidence shows, is one of peculiar and distressing hardship and it is not unnatural that any appropriate canon of construction should be laid hold of to justify a conclusion favorable to the respondents. But if the plain words of the statute are against such a conclusion, leaving no room for construction, the courts have no choice but to follow it, without regard to the consequences. (Chung Fook *v.* White, 264 U. S. 443; Zartarian *v.* Billings, 204 U. S. 170; Low Wah Suey *v.* Backus, 225 U. S. 460, 476.) Section 3 of the act of 1917 defines and enumerates the classes of aliens who are to be excluded—idiots, imbeciles, feeble-minded persons, paupers, professional beggars, diseased persons, criminals, polygamists, anarchists, prostitutes, and numerous others, the last in the enumeration being natives of islands not possessed by the United States adjacent to the continent of Asia and of the continent within certain described limits of latitude and longitude. The clause relied upon immediately follows: 'The provisions next foregoing, however, shall not apply to persons of the following status or occupations: government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, civil engineers, teachers, stu-

dents, authors, artists, merchants, and travelers for curiosity or pleasure, nor to their legal wives or their children under sixteen years of age, who shall accompany them or who subsequently may apply for admission to the United States . . .'

"The limited scope of this exception is apparent and no amount of discussion could make it plainer. It applies to 'the provisions next foregoing,' namely, to that dealing with aliens coming from the barred Asiatic zone and to that only.

"Section 2 (d) of the Quota Law of 1921, as amended, in terms, permits the admission of 'aliens returning from a temporary visit abroad, aliens who are professional actors, artists, lecturers, singers, nurses, ministers of any religious denomination, professors for colleges or seminaries, aliens belonging to any recognized learned profession, or aliens employed as domestic servants,' notwithstanding the quota of the same nationality has been filled. Then follows the further proviso already quoted that in the enforcement of the act 'preference shall be given so far as possible to the wives . . . children,' etc., of certain enumerated classes.

"The respondents are not natives of the barred Asiatic zone, and, therefore, are not entitled to admission under the exception in the act of 1917. There is nothing in the later act of 1921, as amended, which gives the wife or children of a minister any right of entry beyond that enjoyed by aliens generally, unless he falls within one of the classes specified in the proviso to paragraph 2 (d), in which event they are to be given preference over other aliens within the limits of the quota.

"The quota having been exhausted, no case was presented calling for the application of the proviso, even if the respondents could otherwise have been brought within its terms. The contention that it is absurd and unreasonable to say that the wives and children of ministers from the barred Asiatic zone are to be admitted and those outside of it denied admission, does not require consideration, since the result we have stated necessarily follows from the plain words of the law, for which we are not at liberty to substi-

tute a rule based upon other notions of policy or justice. That aliens from one part of the world shall be admitted according to their status and those from another part according to fixed numerical proportions, is a matter wholly within the discretion of the lawmaking body, with which the courts have no authority to interfere."

REVERSED

(Commissioner of Immigration *v.* Gottlieb, 265 U. S. 310.) (See also United States ex rel. Chernin et al, *v.* Curran, 6 F. (2d) 375.)

* * * *

The following case is interesting and important:

Samuel Goldman at the age of 13, arrived at the port of New York on January 21, 1921, accompanied by his mother and two sisters. At Ellis Island the medical officers of the Public Health Service found him feeble-minded; thereupon the Board of Special Inquiry pronounced him to be feeble-minded, and not admissible under Section 3 of the immigration law. On appeal to the Secretary of Labor the alien was permitted to enter the United States temporarily for one year under bond, commencing March 8, 1921. Thereupon the alien proceeded to Syracuse, N. Y., the home of his father, and entered the public school in the grade of children 6 to 7 years of age.

On appeals to the Board of Medical Officers of the Public Health Service, the alien was further examined on February 28, 1922, April 27, 1922, and on April 2, 1923, and the original finding of feeble-mindedness was affirmed in each instance. The bond was extended to May 15, 1922, then to January 1, 1923, and then for a period of 3 months. On May 9, 1923, a warrant of arrest was issued and served on May 14, 1923, whereupon the District Court, on petition of relator issued a writ of habeas corpus.

On November 25, 1922, Isadore Goldman, the father of the relator, was naturalized, and a certificate of citizenship was issued to him. The relator contended that he became a citizen upon the naturalization of his father November 25, 1922, and cannot be deported.

The court decided that the alien, who was in this country only under bond for departure, was not "dwelling" in the United States within the meaning of section 2172 of the Revised Statutes, when his father became a citizen, and therefore did not become a citizen upon the naturalization of his father; that the alien was in the constructive custody of the authorities under bond requiring the alien to be surrendered for deportation. Until admitted in conformity with the immigration law, he can acquire no rights of citizenship under our statutes. The writ was dismissed and the relator remanded for deportation. (United States *v.* Tod, 3 F. (2d) 836.) (See also Zartarian *v.* Billings, 204 U. S. 170; Kaplan *v.* Tod, 267 U. S. 228.)

* * * *

An alien who had been away from this country for nine years appeared before a vice consul in Naples, Italy, before leaving that country to return to the United States. On re-presenting his passport to the vice consul, the alien made certain statements and showed certain documents to him. Thereupon the vice consul stamped the following on the passport: "Exception to quota, returning to domicile in the United States." He arrived in the United States in August, 1923, and was excluded from entry solely because he arrived in excess of quota.

A writ of habeas corpus was then issued out of the District Court E. D. of New York. After a hearing the court decided as follows: "Relator in his contention refers to sections 3170-3212 of U. S. Compiled Statutes, and certain other sections and the treaty with Italy, contending that, as the vice consul is a branch of the State Department, his decision was in effect the decision of that department, and is therefore an adjudication, as well as being a step in the direction toward regulating the quota at the starting point of the alien rather than at the destination.

"However unfortunate, or as relator claims misleading, the making of such a statement by the vice consul may have been, it should not be overlooked that the regulations also require the relator to sign a paper showing clearly to him that he must take his chances with the quota upon arrival,

and it seems to me that this statement was not in any sense a decision of any question, or intended to be, even if there had been proof that such vice consul had power to make a decision. The proof offered fails to show any such power.

"The statement was simply an indication by the vice consul as to the class to which relator claimed he belonged, for use of the authorities here. In other words it was a statement of claim by relator, the validity of which remained to be determined upon his arrival." The writ was dismissed. (United States ex-rel Spinosa *v.* Curran, 4 F. (2d) 613.)

On appeal to the Circuit Court of Appeals, the order of the District Court was affirmed. (United States ex rel Spinosa *v.* Curran, 4 F. (2d) 614.)

* * * *

The idea prevails among a large percentage of aliens coming from Russia and Poland that by using Canada merely as a corridor of entrance to the United States they could avoid the strictness of our immigration laws. The following case clearly shows that the immigration laws are applied as strictly along the Canadian borders as they are at United States ports of entry:

Two natives of Finland, one coming from Russia and one from Poland, together applied to the United States Consul General at Montreal, Canada, for visas upon their passports to enter the United States as visitors and both of them have failed to procure the same.

In a habeas corpus proceeding before the District Court, D. of Vermont, the writs were dismissed and the relators remanded. The Court after disposing of several contentions stated: "It is further said that, even if visas are required, it is merely a 'ministerial' act to affix them; the Consul is bound to visé any passport presented by one who says he is a visitor only; and, if he refuses, 'equity should consider as done that which ought to be done' and treat as visaed the passports presented by these relators. This argument, of course, involves the nullification of Rule 42 of the Secretary of State.

"The core of the argument is that the Consul in Mon-

treal has no right to satisfy himself that these relators are real visitors and the Secretary of State had no right to instruct him so to do. Having regard to the nature of consular actions as to passports, and general knowledge of history, I should not agree; but when the immigration laws are considered, many reasons appear upholding the power of consul in the premises."

(United States ex rel. Johanson v. Phelps, 14 F. (2d) 679.)

* * * *

A group of twenty Russians sought entrance into the United States in 1915. They were detained for deportation by the Acting Commissioner of Immigration, on the ground that they were illiterate laborers with very little money and were likely to become public charges. They were bound for Portland, Oregon, where the reports of industrial conditions showed that it would be impossible for these aliens to obtain employment and that no one here was legally obliged to assist them.

A writ of habeas corpus was sued out. The writ was dismissed by the District Court and the Circuit Court of Appeals. The case was then carried to the Supreme Court of the United States. That court found that the only real ground for the order to deport was the state of the labor market at Portland at that time. As to their ignorance and poverty, that did not carry much weight. The Acting Commissioner of Immigration exceeded his power in deciding not to admit aliens because the labor market in the United States was overstocked, as that matter is to be determined by the President.

"The conclusiveness of the decisions of immigration officers under the immigration laws is conclusive upon matters of fact. The courts are not forbidden by the statute to consider whether reasons, when they are given agree with the requirements of the Act. The statute by enumerating the conditions upon which the allowance to land may be denied, prohibits the denial in other cases. And when the record shows that a commissioner of immigration is exceeding his power, the alien may demand his release upon habeas corpus." (Gegiow *v.* Uhl, 239 U. S. 3.)

In order to overcome this decision and to indicate the intention of Congress that aliens shall be excluded on the ground of likeliness to become a public charge where there is a labor depression and for other economic reasons, provision was made in the immigration act of February 5, 1917.

• • • •

Mrs. Waldman and her children, reaching New York from Europe, were, after examination, detained at Ellis Island on August 28, 1922, and ordered excluded on the ground that they were liable to become public charges, and also because the mother was an illiterate person. It was also found that one of the children was afflicted with a dislocation of the left hip, causing shortening of the left leg and lameness, which may affect her ability to earn a living. The mother claimed that although she was able to read Yiddish, she was declared illiterate. The Department of Labor ordered a re-examination on the literacy test, after which she and her family were ordered deported and further appeal refused.

In her petition, Mrs. Waldman alleged that she and her family were seeking admission to the United States to avoid religious persecution in their home in Proskurow (once in Russia and now in the Ukraine), from which place she escaped as a refugee, and was therefore exempt by the immigration statute from the operation of the literacy test.

A writ of habeas corpus was issued by the District Court for the Southern District of New York. The petition was dismissed and relator remanded to the custody of the immigration authorities for deportation. On appeal to the Circuit Court of Appeals that court ruled that the failure of the Government to set out the details of the literacy test as to the knowledge of Mrs. Waldman in Yiddish and Hebrew at either the first or second hearing, was improper and that the record so left the case of the afflicted child in doubt as to whether her physical defect would interfere with her ability to earn a living.

The order of the District Court was reversed and relators ordered discharged from custody.

The Government appealed to the Supreme Court of the

United States. Mr. Chief Justice Taft delivered the opinion of the Court as follows:

"We think that the complaint of the Government is well founded. The petitioners in the writ of habeas corpus were aliens who had not been legally admitted to the country—that is, neither the immigration authorities nor the court had held that they were entitled to admission. The immigration authorities had ordered their deportation. The Circuit Court of Appeals merely had found that in the course of the examination by the immigration authorities the relators had not been given a fair opportunity to appeal to the Secretary of Labor as provided by statute. This denial of appeal did not give them a right to admission to the country. In the due and orderly disposition of the writ of habeas corpus, relators should not have been discharged and their bail released, but the order should have been framed so as to secure the benefit of the appeal to the relators, to which the court by its decision had held them entitled. To discharge them was to take them out of the proper custody of the government authorities pending their admission or exclusion, was to entail upon the Government the affirmative and initial duty of rearresting them and was improperly discharging the security for their purpose to any lawful order of the immigration authorities. . . . We see no reason, therefore, why upon the appeal which it is now decided the Secretary of Labor must afford the relators, he should not consider and make a definite finding on the issues made by the petition, to wit, first, whether the relators are not relieved from the test as to language because they are refugees from religious persecution; second, whether, if it be necessary, a proper test as to the reading knowledge of Yiddish only, which Mrs. Waldman had, was sufficient to meet the requirement of the statute, and, if not, to order another; and third whether the lameness of Zenia Waldman is likely to affect her ability to earn her living or to make her a public charge.

"The order of the Circuit Court of Appeals is reversed and modified in accordance with this opinion, with instructions to remand the petitioners to the custody of the immi-

gration authorities to await the hearing on appeal before the Secretary of Labor. Failing the granting and hearing of the appeal within thirty days after the coming down of the mandate herein, the relators and their bail are to be discharged." (Tod *v.* Waldman, 266 U. S. 108.)

* * * *

A warrant of arrest and deportation was issued and the alien taken into custody for deportation. A writ of habeas corpus was obtained in the District Court of the United States, Southern Division of the Eastern District of Michigan. At the time of the filing of the petition for the writ, the petitioner alleged he requested that he be released from custody pending the final disposition of his case and that the Secretary of Labor denied his request.

After a hearing on the writ the District Court ordered that the Director of Immigration authorize the release of the alien upon bond within seven days. The director failed to authorize bond and the Court thereupon ordered the release of the alien from custody. The government appealed to the Circuit Court of Appeals, Sixth Circuit.

The sole question involved is whether or not, under Section 20 of the Immigration Act of February 5, 1917, the Secretary of Labor or his authorized agents may decline to bail one properly taken into custody pending the disposition of the case.

The Court construed that part of Section 20 to mean that the alien may be released under bond and that it was the intention of Congress to grant to the one in custody the right to bail in compliance with the law. The Court emphasized "he may be released under bond" and held that by these words Congress intended to grant the alien a right which was mandatory upon the Secretary of Labor. The judgment of the District Court was affirmed December 18, 1926. (Prentis, District Director of United States Immigration Service v. Manoogian, 16 F. (2d) 422.)

* * * *

A father 45 years of age and his son 11 years of age, natives of Latvia, where they left the mother and four other children 4 to 15 years of age, arrived in the United

States and were refused admission on the ground that they were quota immigrants not in possession of an immigration visa.

Upon arrival the aliens presented to the Board of Special Inquiry at Ellis Island a non-quota immigration visa issued by the American vice consul at Reval on October 20, 1924, for admission as temporary visitors.

The board found that there was sufficient evidence that the aliens intended to remain in the United States permanently and so decided that they be excluded.

In a habeas corpus proceeding the District Court upheld the finding of the board and dismissed the writ. (United States ex rel. Alexandrovitch et. al. *v.* Commissioner of Immigration at Port of New York, 13 F. (2d) 943.)

* * * *

A native of Odessa, Ukraine, twenty-four years of age, arrived at the port of New York September 9, 1925, destined to her uncle in Montreal, Canada. She presented a passport issued by the Union of Socialist and Soviet Republics of Ukraine issued at Odessa July 22, 1925, and valid until July 22, 1926. Attached to the passport was a transit certificate of the American Consulate at Riga, Latvia, authorizing her to pass through American territory in transit to Montreal, Quebec, via New York, New York. She was permitted to enter and proceeded immediately and directly to Montreal, Canada.

On October the 26, 1925, she applied at Montreal for admission to the United States and was refused. On appeal to the Secretary of Labor the refusal was sustained. On March 30, 1926, at about 9 P. M. the said alien applied to the Immigration Inspector at Rouses Point, New York, for admission to the United States. After a hearing, the Board of Special Inquiry refused to grant her application.

The record shows that the alien could find no work in Russia and was supported by her uncle in Montreal, and had not worked since her arrival there; she had no funds of her own though she claimed to have $35.00 in a bank in Montreal. On both attempts to enter she claimed that her desire was only to visit another uncle in New York City.

She contended that by offering a $500 bond she had a right to enter as a visitor without let or hindrance.

In a habeas corpus proceeding before the District Court N. D. of New York, the writ was dismissed and the alien remanded and returned to Montreal. The Court stated: "The question here turns upon whether or not any discretion is vested in the immigration authorities. In other words, must such authorities be bound by the statement of the alien that she is a visitor, and not an immigrant, and are their powers limited to requiring a $500 bond for the departure of the alien? If such is the construction of the statute and regulation, then, indeed, the immigration law is as feeble as the relator claims. Every alien who is willing to testify that the purpose of entry is a visit and can procure a $500 bond can enter the country without let or hindrance.

"In the absence of alien registration, every said person may lose himself or herself in the populous parts of the country, and remain the rest of his or her natural life. It means, in short, that every alien who can procure a $500 bond may enter the country. Such a construction flouts the purpose of the immigration law, and exclusion or limitation is largely a myth." (United States ex rel. Porter v. Yale, 14 F. (2d) 682.)

* * * *

An alien 15 years of age and claiming to be coming as a student to attend the American International College, was refused admission to the United States on the ground that he is a quota immigrant not in possession of an immigration visa. The alien presented a non-quota immigration visa in which he was classified as a non-quota immigrant under subdivision (2) of section 4 of the immigration act of 1924. Before the Board of Inquiry he was asked, "When you finish your studies in dental subjects, what will you do?" to which he answered, "I will remain in New York." He was then asked, "Then you are coming here now to remain permanently in the United States?" to which he answered, "Yes."

In a habeas corpus proceeding the District Court held that where the alien has definitely informed the Board, in

answer to its questions, that he intends to remain in the United States permanently, that there was then some evidence upon which the Board reached the conclusion that he was to be excluded; therefore its action has not been arbitrary or unfair. The writ was dismissed. (Ex parte Menaregidis, 13 F. (2d) 292.)

The Circuit Court of Appeals affirmed the order of the District Court. (United States ex rel. Andreas Menaregidis *v.* Curran, 13 F. (2d) 393.)

* * * *

An alien was duly admitted into the United States in 1908. In 1921 he was convicted of a crime involving moral turpitude and sentenced to serve two years in the Maryland House of Correction. In 1924 he left the United States for a short visit to Canada. Shortly after his return to the United States he was apprehended under a warrant dated May 20, 1924, reciting that he had been found in the United States in violation of the Immigration Act of February 5, 1917, in that he had been convicted of a crime involving moral turpitude prior to his entry into the United States. A hearing was had and deportation was ordered.

The District Court of the United States for the Southern Division of the Northern District of California, denied a writ of habeas corpus and an appeal was taken to the Circuit Court of Appeals, Ninth Circuit. The appellant contended that Section 3 of the Immigration Act of February 5, 1917, under which he is being deported, refers exclusively to crimes committed without the United States and before entry.

The Circuit Court of Appeals affirmed the order of the District Court and held, that the crime was committed and the conviction had in this country was not material. The law excluded him because of his moral character. Congress did not limit the right of exclusion to crimes committed or convictions had in other countries. When he returned from Canada in 1924 he was subject, as an alien, to all the provisions of the Immigration Act, and having been convicted of a crime involving moral turpi-

tude he was subject to deportation. (Bendel v. Nagle, 17 F. (2d) 719.)

* * * *

An Italian subject entered the United States at the port of New York on January 31, 1920, destined to Hamilton, Ontario, Canada. After four days in Canada, he returned to the United States and as he claims, was examined and passed by an Immigration Inspector. On June 23, 1921, he declared his intention to become an American citizen. On December 25, 1925, he again went to Canada and after a stay of three days sought re-entry, but was detained on the ground that he had no unexpired consular visa. A warrant of deportation was then issued, based on his last re-entry.

In a habeas corpus proceeding, the District Court, W. D. of New York dismissed the writ, holding that as the relator remained an alien during his residence in the United States he was still subject to the Immigration Act, and that he was never lawfully admitted, and when he sought a re-entry it was as if he was coming to this country for the first time. Therefore the period of limitation for deportation begins at the time of the re-entry, and he must be deported. (United States ex rel. Fanutti v. Flynn, 17 F. (2d) 432.)

Who May Not Be Excluded

A very interesting case interpreting the quota laws was decided by the Circuit Court of Appeals, Third Circuit, on October 2, 1924.

In September, 1923, Domenico Ceccoli, Marino Francesconi and his daughter, Maria Branzetti, and her three minor children, arrived at the port of Philadelphia. All were natives of the republic of San Marino, excepting two of the minor children, who were born in Italy. The Board of Inquiry, after a hearing, excluded all those who came from San Marino, as coming in violation of the act of May, 1921, as amended by the act of May, 1922, in that the quota allotted that section of Europe called—"other Europe," was exhausted for the month of September, 1923, and the

remaining two, natives of Italy, as persons likely to become public charges. The action of the board of inquiry was affirmed on appeal and an order of deportation was then issued. The District Court of the United States E. D. of Pennsylvania, granted writs of habeas corpus, and after a hearing ordered the discharge of each of the aliens. From these orders the Commissioner of Immigration appealed to the Circuit Court of Appeals, Third Circuit. This Court decided that San Marino is not a wholly separate and independent political entity, but is a dependency of Italy by which it is completely surrounded, and that the Italian quota applied under the terms of the statute to persons born in such Italian dependency. As the Italian quota had not been exhausted for the month of September, 1923, at the time of the arrival of the aliens, there is no legal ground for exclusion of those who are natives of San Marino.

The two children who were born in Italy, and who were aged 12 and 8, were excluded by the Board of Inquiry as persons likely to become public charges for the reason that as their mother was excluded as excess quota, they would become destitute. However, the Appeal Court having found that the mother cannot be legally excluded and that she is to be admitted, then the sole reason for the decision of the Board of Inquiry with respect to the two children who are natives of Italy, fails.

The order of the Court below in each case was affirmed and all the aliens were permitted to enter. (Hughes, Commissioner of Immigration, *v.* United States, 1 F. (2d) 417.)

* * * *

A native of Russia immigrated to Argentina in October, 1918, and continued to reside there continuously until March, 1924, being employed during that time as a salesman in a retail store. In March, 1924, he left Argentina and arrived in the United States in April, 1924.

At Ellis Island he presented a passport from the Russian Legation at Buenos Aires, dated March 11, 1924, which was visaed March 20, 1924, by the American consul located in that city. Hearings were held by a Board of Special Inquiry at Ellis Island on April 19 and 20, 1924. At the con-

clusion of the hearing on the last date the Board by a unanimous vote excluded the alien on the ground that he had come to the United States "in excess of the Russian quota."

The alien claimed the right to enter in accordance with the provisions of section 2 of the act of May 19, 1921, as amended. This section provides that aliens who have resided continuously for at least five years immediately preceding their application for admission to the United States in the Dominion of Canada, Newfoundland, Cuba, Mexico, and countries of Central and South America were exempt from the quota. The sole question at issue upon which the admission or rejection of the alien depended was whether or not he had resided in South America for at least five years immediately preceding the time of his application for admission to the United States.

In addition to the passport the alien presented a certificate from the court of the district wherein he resided indicating that he had lived in Argentina for more than five years. The alien also testified that he presented to the American Consul in Buenos Aires a certificate from his employer showing the fact that he had been employed by him from October, 1918, until March, 1924.

On appeal, the Commissioner General of Immigration ordered the alien deported. A petition of habeas corpus was allowed by the District Court with the order that the question of the residence of the relator in South America for five years next previously to his application for admission into the United States, be fully and completely determined.

On June 12, 1924, the case was again before the Board, and again it found that the alien was not entitled to exemption under section 2A, subdivision 7, act of May, 1921, as amended, and therefore he be excluded as coming in excess of the quota allotted to the country of his birth, namely, Russia. The District Court than dismissed the writ, and the alien appealed to the Circuit Court of Appeals.

The Appeals Court found that no consideration whatever seems to have been given by the Board to the question of his residence in South America. That the sole ground upon which the alien claimed the right to enter the United

States was ignored and that the documentary evidence upon which he had secured the visa of his passport was apparently not considered at all.

The Court held: "That an alien has rights of which he cannot be deprived without due process of law and for the enforcement of which he may invoke judicial interference. . . . The Congress has conferred upon the Secretary of Labor great power in admitting or excluding aliens. But this power must be exercised fairly and in good faith with an earnest effort to discover the truth in accordance 'with the fundamental principles of justice embraced within the conception of due process of law.' (Tang Tun *v.* Edsell, 223 U. S. 673; Kwock Jan Fat *v.* White, 253 U. S. 454.) While Federal Courts may not inquire whether or not on the evidence a decision of a Board of Special Inquiry is right or wrong, they may, nevertheless, inquire whether or not the alien had a fair hearing and whether or not the evidence was disregarded or adequately supports the decision." (Hughes *v.* United States, 295 F. 800.)

The judgment dismissing the writ of habeas corpus was reversed. (United States ex rel. Schachter *v.* Curran, 4 F. (2d) 356.)

* * * *

Upon the arrival in this country of one Ossana Soghanalian, she was detained, examined by a Board of Special Inquiry at Boston, was was found to be unable to read or write in any language or dialect and for that reason was excluded. Upon appeal the excluding decision was affirmed.

The U. S. District Court D. of Massachusetts granted a writ of habeas corpus. The applicant claimed exemption from the provisions of the statute barring illiterates for the reason that she was fleeing to this country to escape religious persecution. The respondent appealed to the Circuit Court of Appeals from the decree granting the writ.

On November 5, 1924, the Appeals Court decided that the evidence fully warranted the finding of the lower Court that the alien should have been admitted as a fugitive from religious persecution. She testified that she was born in Hadjin, Turkey, 27 years ago, and resided there permanently until obliged to leave her home in Hadjin to

escape Turkish persecution, after the Turks had killed her father and mother. She was on her way to her brother, a merchant in Binghamton, N. Y., and an American citizen since 1914; that he owend substantial property in that city and would be fully responsible for his sister's support.

The decree of the District Court was affirmed, and the alien was permitted to enter this country. (Johnson *v.* Tertzag ex parte Soghanalian, 2 F. (2d) 40.)

* * * *

In 1923 an alien woman entered the United States under a bond. She claimed to be the wife by proxy of an alien resident in the United States, who has resided here for three years. The Board of Special Inquiry that saw the witnesses, was satisfied of the good faith of the woman and her alleged husband. In 1927 the government sought to exclude her on the ground that she is illiterate.

She claimed that the marriage ceremony took place at the office of the Civil Government in Alcanede, Portugal, where she lived and while her present alleged husband was living in the United States. He being represented at the ceremony by his brother. This was a marriage by proxy.

The government officials refused to recognize such a marriage, maintaining that it is not valid in this country.

In a habeas corpus proceeding, the District Court, D. of Mass. sustained the writ and ordered that the alien be discharged from custody. The Court decided that the marriage was valid under the laws of Portugal and that the Law of Massachusetts does not forbid an alien resident here from marrying by proxy in a manner valid according to the laws of his country. (Kane v. Johnson, 13 F. (2d) 432.)

* * * *

A brother and sister aged thirteen and twelve respectively, natives of Poland, were refused admission to the United States and were detained at Ellis Island for deportation. The Board of Special Inquiry excluded them on the grounds that they are unaccompanied by or going

to either parent, and (as) persons likely to become public charges, and that they were assisted immigrants.

The record shows that they were school children at home and able to read and were in good health, but without any funds.

They were destined to a relative who had paid for their passage, and who is a naturalized citizen of the United States, of good repute, and representing himself to be worth more than $300,000. This relative agreed to take the children into his own home and support them until they had finished their schooling and were able to support themselves.

In a habeas corpus proceeding the District Court of New Jersey sustained the writ and ordered the aliens discharged from custody. The government appealed and the Circuit Court of Appeals, Third Circuit, affirmed the order of the District Court, and handed down the following vitally important opinion: "The exclusion of the petitioners on the ground that they were, in the words of the statute, 'children under sixteen years of age unaccompanied by or not coming to one or both of their parents,' Section 3 of the Act of 1917 (Comp. St. 1918, Comp. St. Ann. Supp. 1919, § 4289¼ b), was, in view of their full qualification for admission under Rule 6 promulgated by the Department of Labor to enforce the cited section of the Immigration Law, an abuse of discretion, and, therefore unlawful."

As to their being assisted immigrants, the Court was of the opinion that that is immaterial unless the persons so assisted are affirmatively shown to belong to one of the excluded classes.

As to their becoming public charges, the Court found not a particle of evidence tending to prove the fact, in view of the offer of the rich relative to care for and support them. (United States ex rel. Berman v. Curran, 13 F. (2d) 96.)

* * * *

Under regulations to Govern Enforcement of the Immigration Act of 1924 is General Order No. 30, June 6, 1924. It reads as follows:

"An alien visiting the United States temporarily as a tourist or temporarily for business or pleasure shall be construed to mean an alien coming to the United States to remain not more than six months.

"In cases where an alien is possessed of a document which has been visaed by the consular officer on the basis of a claim that such alien is visiting the United States temporarily as a tourist or temporarily for business or pleasure, or that he seeks to enter for the purpose of transit through the United States, or solely to carry on trade under and in pursuance of a present existing treaty of commerce and navigation, and the officer in charge at the port is not satisfied that the alien is coming for the purpose stated, such officer in charge, as a condition precedent to the admission of the applicant, may exact a bond in the sum of $500, conditioned that the applicant shall depart from the United States within six months, if visiting the United States temporarily as a tourist or temporarily for business or pleasure, or within ten days if in transit through the United States, or that he shall maintain his exempt status if admitted solely to carry on trade under and in pursuance of a present existing treaty of commerce and navigation."

On July 22, 1924, there arrived at Ellis Island a woman who was born in Greece. She had a passport issued to her in Naples, Italy, on June 13, 1924, which was visaed by the American Consul at that place on July 8, 1924. It stated that she was "proceeding to the United States on pleasure."

Upon her arrival and after a hearing before a Board of Special Inquiry at Ellis Island she was denied admission on the ground that the alien intended to remain in the United States permanently. An appeal was taken to the Board of Review at Washington on July 26, 1924. The Board affirmed the decision of the Board of Special Inquiry. The Secretary of Labor also affirmed the decision on July 30, 1924.

The District Court S. D. of New York dismissed a writ of habeas corpus after a hearing, and remanded the alien to the custody of the Commissioner of Immigration. An appeal was then taken to the Circuit Court of Appeals, Second Circuit. The Appeals Court decided as follows:

"We have carefully read the testimony given before the Board of Special Inquiry in order that we might be informed whether there was any evidence before the Board which justified the exclusion order. We have failed to find any such evidence." The court further stated:

"It thus appears that this relator, if she came to the United States as an alien visitor or tourist as she claims, was neither a quota nor a non-quota immigrant nor an immigrant at all, and was not subject to exclusion, but was entitled to be admitted and to remain in the United States not more than six months. And if the 'officer in charge at the port' was not 'satisfied' that the alien was visiting the United States temporarily as a tourist or for pleasure, he might exact a bond in the sum of $500, conditioned that she should depart within six months; she being possessed of the 'document' mentioned in General Order No. 30."

"It is, of course, well established that if the Board had before it some evidence upon which it could base the decision it reached and its action has not been arbitrary and unfair, the courts cannot go into the merits and set the Board's action aside because in the court's opinion the Board misjudged the evidence. (Lewis *v.* Frick, 233 U. S. 291; Low Wah Suey *v.* Backus, 225 U. S. 460.)

"It is equally plain that if the Board has acted in an arbitrary and unfair manner, and directly contrary to law, and there is no evidence before it upon which the exclusion can be based, the courts have the right to set the exclusion order aside and order the alien discharged from the custody of the immigration officials. The decision of these officials must find adequate support in the evidence." (Kwock Jan Fat *v.* White, 253 U. S. 454, 458; Zakonaite *v.* Wolf, 226 U. S. 272.)

The order dismissing the writ was reversed and the alien permitted to enter the Unted States under a bond of $500. (Chryssikos *v.* Commissioner of Immigration, 3 F. (2d) 372.)

* * * *

An alien who was a British subject arrived at the port of New York on September 22, 1912, and was detained. He was brought before a board of special inquiry on the

charge that he had been convicted of a criminal libel involving moral turpitude, for which he served a sentence of twelve months in a London institution; this being the maximum penalty under the English law.

The libel of which he was convicted charged in substance that the present King of England during the year 1890, was married to the daughter of an English Admiral and that he subsequently abandoned her in order to marry a woman of royal blood and by so doing committed bigamy. 210 F. 860.) The board found against the alien and he was ordered to be deported. He appealed to the Secretary of Commerce and Labor who affirmed the decision of the Board.

Thereafter, a writ of habeas corpus was issued out of the District Court which sustained the writ and discharged the alien from custody.

The Government appealed to the Circuit Court of Appeals and that court was of the opinion that the publication of a defamatory libel does not necessarily involve moral turpitude. That the immigration officers act in an administrative capacity. They do not act as judges of the fact to determine from the testimony in each case whether the crime of which the immigrant is convicted does or does not involve moral turpitude. The alien was permitted to enter the United States. (United States ex rel. Mylius *v.* Uhl, 210 F. 860.)

* * * *

A native and subject of Italy applied for admission to the United States as a temporary visitor and was excluded on the ground that he was not entitled to the status of a non-immigrant under the law and was therefore subject to exclusion.

The alien testified that he had been a student for three years, 1922 to 1925, at the University of Palermo, Italy, and had made application to the American consul to enter the United States as a student. The American consul declined to issue a student visa but granted him a non-immigrant visa as a temporary visitor. Before leaving Italy he obtained through his brother in the United States a certificate

from Stevens Institute of Technology, Hoboken, N. J., July 23, 1925, reading as follows:

> "This is to certify that Mr. Rizzo Domonico de Giuseppe, Sicily, Italy, has been admitted to the freshman class of Stevens Institute of Technology. In support of his application for admission he has filed with the undersigned a certified copy of his record at the University of Palermo, Sicily, for the three years, 1922 to 1925. His admission is conditioned upon his being able to successfully carry the work in English."

Upon arrival, the alien presented an Italian passport and visa issued by the American consul at Palermo, and also the certificate from the Stevens Institute as above noted. The alien was asked by an inspector of immigration on board the ship if he wanted to remain in the United States and he answered, "If they will allow me I will remain."

The Board of Special Inquiry unanimously excluded him as not being a bona fide visitor.

In a habeas corpus proceeding the relator was discharged from custody. The District Court found that the alien having hoped to come here as a student and being denied a visa for this purpose, accepted a visa as a temporary visitor, hoping to be allowed to remain as a student upon being qualified for admission to Stevens Institute and that his hope, whether well or ill founded, that he may ultimately be permitted to remain as a student cannot take away his present status as a temporary visitor if he honestly seeks admission on that ground. (United States ex rel. Rizzo *v.* Curran, 13 F. (2d) 233.)

* * * *

A subject of Japan entered the port of San Francisco about 1913. He obtained work in Oregon, Washington and in Alaska. On November 18, 1925, he was convicted of violating the Alaska Prohibition Act, and served three months in jail. On September 28, 1926, he was convicted under the Alaska laws, for trespassing, and fined $10. He refused to pay the fine and served five days in jail. From March 26, 1926, to May 11, 1926, he was employed

on boats operating on the Stikene river between Wrangell, Alaska, and Telegraph Creek, B. C. He was also the proprietor of a restaurant at Wrangell, Alaska, for over two years.

On November 13, 1926, he was ordered deported on the ground that he became a public charge within five years of his last entry. The government contended that his entry on May 16, 1926, from British Columbia, though he remained on board as cook, was a re-entry.

In a habeas corpus proceeding the District Court, W. D. of Washington N. D. decided that while he remained on board as cook he did not leave the United States as he was then a member of a crew on an American ship in foreign waters. An American vessel is deemed to be a part of the territory or state within which its home port is situated, and as such is a part of the United States. The alien was discharged from the order of deportation. (Ex parte Kogi Saito, 18 F. (2d) 116.)

* * * *

Who May Be Deported

Under the immigration laws, authority is vested in the Secretary of Labor to provide rules and regulations for enforcing the provisions of these laws. Of these rules which have the effect of law, the courts must take judicial notice. (Caha *v.* United States, 152 U. S. 211.) One of the most important rules is Rule 18 entitled, "Arrest and Deportation on Warrant."

Subdivision A of Rule 18 provides:

"Officers shall make thorough investigation of all cases when they are credibly informed or have reason to believe that a specified alien in the United States is subject to arrest and deportation on warrant. All such cases, by whomsoever discovered, shall be reported to the immigration officer stationed nearest the place where the alien is found to be."

It was expressly adjudicated in the Chinese Exclusion cases (130 U. S. 581), that an invitation once extended to

the alien to come within our borders may be withdrawn. He acquires no vested right to remain.

"The order for deportation is not a punishment for crime. It is not a banishment, in the sense in which that word is often applied to the expulsion of a citizen from his country by way of punishment. It is but a method of enforcing the return to his own country of an alien who has not complied with the conditions upon the performance of which the Government of the nation, acting within its constitutional authority, and through the proper departments has determined that his continuing to reside here shall depend." (Fong Yue Ting *v.* United States, 149 U. S. 698.)

The law is well settled that the courts have no jurisdiction, on habeas corpus proceedings, to interfere with the proceedings of the Department of Labor concerning the exclusion or expulsion of aliens unless and until there is some error of law in that department. It is well settled on pure questions of fact, the courts will not interfere. (Svarney *v.* United States, 7 F. (2d) 515; Ex parte Fragoso, 11 F. (2d) 988.)

However, if it is shown that the proceedings of the Department of Labor were unfair or lacking in the essentials of due process of law, then the courts must review. (Chin Woy *v.* U. S., 208 U. S. 8; Gegiow *v.* Uhl, 239 U. S. 3.)

* * * *

The following case illustrates how strict the immigration laws are applied when an alien leaves this country without first having obtained the necessary permission to return.

An alien who was not entitled to enter this country did enter and remained here more than three years. This three-year period exempted him from deportation under the act of March, 1903. Nevertheless a warrant for his arrest and deportation was issued by the Secretary of Commerce and Labor. Some time in 1910, this alien, while in Niagara Falls, N. Y., passed from the American to the Canadian side to view the falls, and after staying there for about one hour returned to the American side, and shortly thereafter was arrested. The court held that his return to

the United States from Canada, although he was away for only one hour, constituted a re-entry, after which he was subject to deportation. (United States *v.* Williams, 187 F. 470.)

However where an alien has lawfully entered the United States and resides here for a while, then a temporary leave of absence does not make such alien subject to deportation when he attempts to enter this country before the expiration of the leave of absence granted him. (Sprung *v.* Morton, 182 F. 330.) The statutes of deportation nevertheless remain applicable so long as he remains an alien, and he is subject to deportation within the statutory period, commencing with the time of his last re-entry. (Frick *v.* Lewis, 195 F. 693); such period commences from the time of his entry under conditions within the prohibitions of the act and not from the date when he first entered this country. (Lapina *v.* Williams, 232 U. S. 78.)

The fact that the alien has declared his intention to become a citizen of the United States does not affect the power of Congress to order deportation. U. S. *v.* Uhl, 211 F. 628, 128 C. C. A. 560.) Under the alien act of May 10, 1920, aliens convicted of offenses under the Selective Service Act of May 18, 1917, and the espionage act of June, 1917, may be deported regardless of the lapse of time after the commission of the offense. (United States ex rel. Brazier et al, 5 F. (2d) 162.)

* * * *

Section 34 (Comp. St. § 4289¼ S), is the one regulating the deportation of seamen who have entered unlawfully, no matter what may be the ground for their deportation. If a seaman was excludable when he entered, he is deportable under this section, if the warrant of arrest is issued within three years of his arrival. Also under this section the statute of limitations runs from the time the warrant of arrest was issued and not from the time when he was taken into custody for deportation. (United States v. Day, 18 F. (2d) 781.)

* * * *

A native-born citizen of the United States named Haskins removed to Canada in 1900 and soon after applied for and received a certificate of naturalization and became a British subject. Thereafter he was convicted of a felony and sentenced to prison for a term of five years. After serving about one year he was permitted to return to the United States where in 1917 he took up his residence in Wyoming and subsequently removed to Texas. In 1922, he went to Vancouver, British Columbia, on a matter of business and in that year was arrested at Vancouver and returned to the United States to answer a charge of using the mails to defraud. He was indicted, pleaded guilty, and was sentenced to be imprisoned in the Leavenworth penitentiary. Upon his release he was arrested by the immigration authorities and after a hearing, a warrant of deportation was issued.

In a habeas corpus proceeding, the District Court of the United States, for the District of Kansas, ordered the petitioner discharged from custody. The Government appealed. The Circuit Court of Appeals reversed and remanded the cause, with instructions to restore the appellee to the custody of the immigration authorities, handing down the following important decision: "The Act of March 2, 1907, § 2 (34 Stat. 1228 [Comp. St. § 3959]), provides: 'any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign state in conformity with its laws.' When appellee was naturalized in Canada, he became a naturalized citizen and subject of Great Britain. It was a voluntary and effectual expatriation. He was no longer a citizen of the United States but an alien. Such is the effect of expatriation. Therefore at the time of his re-entry into the United States, and at the time of the order of removal, he was not a citizen of the United States but an alien, as defined in the Immigration Act of 1917, and therefore subject to deportation." (Reynolds *v.* Haskins, 8 F. (2d) 473.)

* * * *

An alien was arrested, given a hearing, and thereupon ordered to be deported, on the ground, among others, that

he admits having committed, prior to his entry into the United States, a crime involving moral turpitude, namely, the crime of bigamy. On a writ of habeas corpus in the District Court E. D. of Michigan S. D., it was urged on behalf of the petitioner, among other grounds, that the admissions made by him at the said hearing concerning his commission of such crime cannot be considered as evidence, because they were elicited from him by an immigration inspector in violation of his constitutional right to refuse to testify against himself.

The court held that a deportation proceeding is not criminal, but civil, in its nature, and consequently an alien may not refuse to answer questions properly asked by an immigration inspector designed to ascertain whether such alien is subject to deportation, when such refusal is based upon the sole ground that his answers to such questions will be incriminating evidence against himself, because they may result in his deportation.

Where the alien admits the commission prior to entry, of a felony or other crime or misdemeanor involving moral turpitude, within the meaning of the applicable statutory provision, he is subject to deportation. (United States ex rel. Rennie *v.* Brooks, 284 F. 908.)

* * * *

Sect. 3, act of February 5, 1917, excludes, among others, the following: "Persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude."

In July, 1913, an alien, native of what is now Poland, entered at the port of New York, then proceeded to Seattle, Washington, and established his residence there. In December, 1920, he went to Canada, became involved in the importation of 22 cases of liquor, and re-entered the United States, was arrested, and prosecuted under the Washington State Prohibition Act, pleaded guilty, and was fined and imprisoned. Thereafter he was arrested and charged with being found in the United States in violation of immigration act of February 5, 1917, to wit: "That he was a person likely to become a public charge at the time of his entry and

that he entered without inspection." A hearing was duly had and he was ordered deported by the Secretary of Labor to his home in Poland.

The Board of Review reconsidered the matter and finally decided that the alien be deported. On habeas corpus, the District Court, W. D. Washington N. D. decided: That the petitioner at the time of entry (from Canada) had conspired with another to violate the laws of the United States. Conspiracy is a felony. He admitted having committed a felony, and is excluded by the act, and unquestionably liable to become a public charge, in that he was subject to prosecution in the courts of the United States, and likely to be convicted on his own admission, and subject to imprisonment for two years. (Ex parte Horn, 292 F. 455.) A tax, duty, and trust was imposed upon the government when he was convicted, and he thereby became a public charge. (Ex parte Tsunetaro Machida, 277 F. 239.)

* * * *

On September 10, 1902, a subject of Japan lawfully entered the United States and continued to reside here until February 2, 1907, when he pleaded guilty to the crime of assault with a deadly weapon with intent to inflict bodily injury, where no considerable provocation appeared to exist, and he was sentenced to imprisonment in the state penitentiary for the term of two years. On May 1, 1908, he was paroled and resumed his residence in Seattle, Washington, where he continued to reside until September, 1913, at which time he left to visit his parents in Japan and returned to the United States, May 21, 1914, and was admitted as a non-immigrant. Since his return he has continued to reside in the United States, and is now the father of two children, who are native-born citizens of the United States.

On February 19, 1924, a warrant for his arrest was issued by the Secretary of Labor, and he was arrested and ordered deported on the ground that he had been convicted of a felony involving moral turpitude prior to his entry into the United States.

The District Court issued a writ of habeas corpus and

after a hearing ordered that the alien be discharged from custody for the reason that the warrant of deportation was not issued within the time limited by law.

On appeal, the Circuit Court of Appeals held: that section 19 of the immigration act of February 5, 1917, provides for the deportation of certain classes of aliens for acts committed before entry and in some cases for acts committed after entry. In some instances there is a time limit of five years; in others three years; and in still others there is no time limit at all. The alien having committed a felony involving moral turpitude belongs to the special class for which no time limit is fixed. Therefore the Secretary of Labor acted within the limits of his power and the warrant for deportation is valid. The alien was ordered to be deported. (Weedin *v.* Tayokichi Yamada, 4 F. (2d) 455; United States *v.* Smith, 8 F. (2d) 663.)

* * * *

A native of Italy came to the United States in December, 1919, at the age of 66 years. In 1883 he was convicted of murder in Italy and sentenced to death. In the following year, the sentence was commuted to life imprisonment at hard labor. He served his sentence in prison until he was pardoned and released on January 7, 1919.

In 1924, having resided in the United States continually since December, 1919, he was arrested on a warrant of the Department of Labor on the ground that he had been convicted of a crime of moral turpitude prior to his entry into the United States.

In a habeas corpus proceeding the District Court W. D. of New York, sustained the writ and ordered the alien discharged from custody, on the ground that the alien was pardoned before his entry and such pardon blotted out the existence of guilt and in the eyes of the law was innocent as though he never committed the crime.

The government appealed to the Circuit Court of Appeals, Second Circuit. The Appeals Court reversed the order of the District Court and held that the provision of the Immigration Act exempting aliens convicted of a crime of moral turpitude, and who were subsequently pardoned,

only applies to crimes committed in this country and that a pardon in a country without the United States does not obliterate the commission of the crime, when the alien seeks to enter the United States. The pardon is of assistance to the alien only when the crime of which he is pardoned was committed within the five year period after entry into the country. The alien was ordered deported. (United States ex rel. Palermo v. Smith, 17 F. (2d) 534.)

* * * *

The following case clearly shows how limited is the power vested in the Federal Courts to disturb a deportation proceeding, though such limitation of power may result in the unjust deportation of the alien.

An alien entered the United States in 1913. He is 34 years of age and has a wife and two children who were born in the United States. During 1921 he left this country for the purpose of bringing his mother here, and remained in Italy nine months before returning to the United States.

In the summer of 1924 he went to California to purchase fruit; he being a small fruit dealer in New York City. In payment for some fruit, he delivered to the vendor a check for $100. A few days later and after cashing the check, the vendor telephoned him that he had lost the check and wanted another. The alien sent him another check without stopping payment on the first one. The vendor attempted to cash the second check but found there were insufficient funds in the bank by about $7.50.

Section 476 (a), of the Penal Code of California is as follows:—

> "Every person who, willfully, with intent to defraud, makes or draws or utters, or delivers to another person any check or draft on a bank, banker or depositary for the payment of money, knowing at the time of such making, drawing, uttering or delivery, that he has not sufficient funds in, or credit with, such bank, banker or depositary to meet such check or draft in full upon its presentation, is punishable by imprisonment in the county jail for not more than one year or in the state prison for not more than fourteen years."

The fraudulent vendor then caused the arrest of the alien based on the charge that he had willfully delivered to him a check without having sufficient funds to meet it. The alien, upon the wrongful advice of one who later proved to be a swindler, pleaded guilty so that he may be dealt with lightly. Upon his plea of guilty he was sentenced to serve from one to four years in San Quentin. He was paroled in August 1926. Upon his release he was taken into custody for deportation. While at Ellis Island, a writ of habeas corpus was obtained and after a hearing the writ was dismissed. The District Court concluded: "The difficulty in the case at bar is, however, that the relator has pleaded guilty to a willful intention to defraud. . . . This Court is bound by the record, and is not open to question that such an act is one involving moral turpitude." (United States ex rel. Portada v. Day, 16 F. (2d) 328.)

* * * *

The following case brings out clearly the interpretation by the courts of that part of the immigration law which provides for deportation within five years of all those who, by their conduct, forfeit their rights to remain.

An alien, subject of Italy, came to the United States in 1913, and resided here until 1914 when he returned to Italy to serve in the Italian army in the World War. He returned to the United States as a reservist on May 20, 1920. He claims to have regarded the United States as his permanent home, that his domicile was here, and that during his absence he always had the intention of returning to the United States.

On May 24, 1924, he was sentenced to imprisonment at Sing Sing for a term of from two to four years for criminal assault with a gun. On July 15, 1925, the Second Assistant Secretary of Labor issued his warrant for the deportation of the alien to Italy.

The alien claimed that the crime for the commission of which it is now sought to deport him affords no ground for his deportation, inasmuch as it was not committed within five years of his original entry into the United States in 1913.

A writ of habeas corpus was issued out of the District Court S. D. of New York, and after a hearing the writ was dismissed. On appeal, the Circuit Court of Appeals affirmed the decision of the lower court.

The Government contended that inasmuch as the crime was committed within five years of his last entry into the United States, the statute authorizes his deportation; and the Appeals Court concurred in this view of the statute, holding, that there is nothing in the act which warrants its limitation to the alien's first entry. He may be deported within five years of his last enery regardless of his previous residence here. The alien was deported. (United States ex rel. Ciccerelli *v.* Curran, 12 F. (2d) 394.)

* * * *

Within five years after his entry, an alien was arrested and charged with assault with the intent to take from the owner by force a taxicab in which they were riding; the assault took place while said alien was intoxicated. On his plea of guilty he was sentenced to imprisonment for more than one year. The government then sought to deport him on the ground that although the crime was committed while intoxicated it was nevertheless a crime involving moral turpitude.

In a habeas corpus proceeding held before the District Court, S. D. of New York, the relator contended that, as he was not conscious of his actions while intoxicated, he was not guilty of moral turpitude.

The writ was dismissed and the alien ordered deported. The Court stated that the commission of the crime while intoxicated did not excuse the alien. That his behavior evinces a disregard of the personal and property rights of others and is therefore a danger to the community. (United States ex rel. Mazzillo v. Day, 15 F. (2d) 391.)

* * * *

In 1912, a boy about six years of age arrived in the United States. In July, 1922, he was convicted of unlawfully entering a building and sentenced to an indeterminate sentence to the New York County Reformatory, and was

paroled after serving less than a year. In May, 1923, he again committed the crime of unlawful entry and was convicted and sentenced to serve not less than two nor more than four years in State Prison at Sing Sing, New York.

Section 19 of the immigration act of February 5, 1917, provides that where one is sentenced more than once for a crime involving moral turpitude committed at any time after entry to this country he shall be deported. That is, when the crime is a state prison offense. The Department of Labor issued a warrant for his arrest and deportation. The relator applied for a writ of habeas corpus, to secure his release from custody under deportation warrant.

The sole question before the court was whether the sentence to the reformatory was for a term of one year or more. If it was, then it was a state prison offense. The court found that the sentence was for three years with the parole board having the right to terminate such term at any time prior to its expiration and therefore the relator has been twice convicted of crimes involving moral turpitude and should be deported. The writ of habeas corpus was dismissed and relator remanded to the custody of the Department of Labor for deportation. (United States. Ex rel. Sirtie *v.* Commissioner of Immigration, 6 F. (2d) 233; United States *v.* Smith, 8 F. (2d) 663. See also United States ex rel. Klonis *v.* Davis, Secretary of Labor, et al., 13 F. (2d) 630.)

* * * *

A provision of the immigration act as amended in 1910, reads as follows:

"That the importation into the United States of any alien for the purpose of prostitution or for any other immoral purpose is hereby forbidden; and whoever shall directly or indirectly import or attempt to import into the United States any alien for the purpose of prostitution or for any other immoral purpose, or whoever shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or whoever shall keep, maintain, control, support, employ or harbor, in any house or other place for the purpose of prostitution or for any other immoral purpose in pursuance of such illegal im-

portation any alien shall, in every such case be deemed guilty of a felony and on conviction thereof, be imprisoned not more than ten years and pay a fine not more than five thousand dollars."

Where an alien had a fair trial, and there was evidence to support the finding of the immigration authorities that he had imported a woman for immoral purposes, the courts will not disturb such findings and they are conclusive if there is any evidence to support them. Hearings before immigration authorities are not subject to the rules governing judicial proceedings. Hearsay evidence is admissible and the hearings may be summary. In re: Diamond C. C. A., 266 F. 34; In re: Rakics C. C. A., 266 F. 646; Morrell *v.* Baker, 270 F. 577; ex parte Szumrak, 276 F. 803.)

• • • •

The following case involves the construction of the provisions of the immigration act in regard to deportation of undesirable aliens.

An alien born in Russia came to this country, entering the port of New York in the month of September, 1904, lived in New York City until March, 1910, then moved to Detroit, Michigan, and continued to reside there. On November 17, 1910, he crossed the river from Detroit to Windsor, Canada, and brought back with him into the United States a woman, claiming to be his wife. This claim was questioned by the immigration authorities. A few days later he was arrested upon a warrant from the Department of Commerce and Labor; it was found that he had brought the woman into the United States for immoral purposes and that she was not his wife. He was thereupon ordered deported.

The question was whether he was to be deported to Canada from where he brought the woman or to the port or place from whence he came on his first entry into the United States in 1904.

The Supreme Court of the United States decided that as he had been admitted into the United States, he shall be deported to the trans-Atlantic port from which the alien embarked for the United States at the time of his first entry

in 1904. But had his offense been discovered at the time he sought entrance from Canada, he would have been excluded from the United States, the same as an alien who has never been here and who is subject to exclusion under the immigration laws. Under these circumstances he would have been left in Canada and subject to the immigration and deportation laws of that country. (Lewis *v.* Frick, 233 U. S. 291.)

* * * *

In April, 1904, the Supreme Court of the United States had before it for decision a case involving the validity of that part of the alien immigration act of 1903 excluding aliens who are anarchists.

One John Turner, a subject of Great Britain, came to the United States from England about October 14, 1903. He was arrested on or about October 23, 1903, under a warrant issued by the Secretary of Commerce and Labor and taken to Ellis Island Immigration Station, where he was examined by a Board of Special Inquiry, upon his right to remain in this country. By a unanimous decision of this board he was found to be an anarchist and ordered to be deported to the country from which he came. The alien appealed to the Secretary of Commerce and Labor who dismissed the appeal and directed that the alien be deported on the ground that said alien was an anarchist and a person who disbelieved in or who was opposed to all organized government. The case was then carried to a United States Circuit Court, and after argument of counsel, that court decided that the alien be remanded into custody of the immigration authorities for deportation. An appeal was then taken to the Supreme Court of the United States and granted. Mr. Clarence S. Darrow and Mr. Edgar L. Masters appeared for the appellant. Chief Justice Fuller delivered the unanimous opinion of the court which contained the following:

"Repeated decisions of this court have determined that Congress has the power to exclude aliens from the United States; to prescribe the terms and conditions on which they may come in; to establish regulations for sending out of the country such aliens as have entered in violation of law

and to commit the enforcement of such conditions and regulations to executive officers; that the deportation of an alien who is found to be here in violation of law is not a deprivation of liberty without due process of law and that the provisions of the Constitution securing the right of trial by jury have no application. . . . To appeal to the Constitution is to concede that this is a land governed by that Supreme law, and, as under it the power to exclude has been determined to exist, those who are excluded cannot assert the rights in general obtaining in a land to which they do not belong as citizens or otherwise."

The order to deport was affirmed. Turner *v.* Williams, 194 U. S. 279.)

* * * *

By the Act of October 16, 1918, the Secretary of Labor is empowered to exclude and expel from the United States aliens who are members of the anarchistic or similar classes.

On December 17, 1918, two aliens were arrested and ordered to be deported upon the ground that they have been found advocating and teaching the unlawful destruction of property. One was a subject of England, and the other a subject of Russia.

The testimony showed that they had been members of the I. W. W. for the last ten years and actively engaged in furthering the propaganda of that organization, and advocating the resort to sabotage as a means of gaining their ends.

The United States District Court ruled that the conclusion of the Commissioner of Immigration based upon the facts stated, is within the purpose and intent of Congress in enacting section 19 of act of February, 1917, and by the passage of the act approved October 16, 1918. (Ex parte Bernat, 255 F. 429.)

* * * *

Section 3 of the immigration act of February 5, 1917, provides that certain enumerated classes of aliens shall be excluded from admission into the United States. Among the classes so excluded are anarchists.

Section 19 of the act provides for the arrest and deportation within five years after entry of any alien who at the time of entry was a member of one or more of the classes excluded by law. It then provides for the deportation of classes of aliens therein mentioned, irrespective of the time of their entry into the United States, and among those so specified is the following:

"Any alien who at any time after entry shall be found advocating or teaching the unlawful destruction of property or advocating or teaching anarchy or the overthrow by force or violence of the government of the United States or of all forms of law, or the assassination of public officials."

One Lopez, was arrested in June, 1918, on a warrant charging that he was an anarchist and teaching through publication the idea of social revolution and anarchy. He was ordered deported from this country to Spain, and placed in custody of the Commissioner of Immigration at the port of New York. A warrant directing that the Commissioner of Immigration of New York deport the alien to Spain was issued by the Acting Secretary of the Department of Labor on November 4, 1918.

A writ of habeas corpus was obtained on behalf of the alien, and after a hearing in the United States District Court for the Southern District of New York, the writ was dismissed and on December 20, 1918, the alien was remanded to the custody of the United States Commissioner of Immigration at the port of New York. On appeal to the Circuit Court of Appeals, the order of the District Court was affirmed. (Lopez *v.* Howe, 259 F. 401.) Some of the facts reviewed by the Court of Appeals are as follows:

The alien claimed that he is a philosophical anarchist and is opposed to the overthrow of government by force or violence. That his ideals are founded on free-thinking and education; and that he did not believe in assassination of public officials or anybody, as everybody has a right to live. That the kind of anarchy he believes in is teaching, educating, and telling the people to better their conditions by carrying into effect the teachings of Tolstoi, Marx, Ferrer,

Zola, Kropotkin, and many others. And as he has been in this country for fifteen years, he cannot be deported.

Following is the opinion of the Court:

"An alien at the time of his entry, may not be an anarchist and therefore may be entitled to enter. But if, at any time, after his entry he is found 'advocating or teaching anarchy,' he may be deported. . . . The testimony shows conclusively that he is an advocate and a teacher of anarchy making speeches in its favor, organizing anarchist groups, and distributing anarchist literature. As he reads and writes Spanish, Italian, Portuguese, and English, he is a man of ability, who naturally has influence with his associates. That he is liable under the law to deportation admits of no doubt. . . . The fact that he is only a philosophical anarchist, and not an advocate of a resort to force and revolution, makes him, in the opinion of Congress, none the less a dangerous presence. His theories if they could be put into practice, would end the government of the United States and to that government he recognizes no allegiance, never having become a citizen of the United States. If the government considers his presence undesirable, because of his advocacy of a doctrine which it regards as inimical to civilization, it must have the power to send him out of the country, and back to the country whence he came. . . . Whether it is wise or unwise for such as he to be sent out of the United States is not a question upon which courts can express any opinion. That is a question for the Congress, and not for the judiciary."

The alien was deported. (Lopez *v.* Howe, 259 F. 401.)

* * * *

An alien, a native of Italy, came to the United States in 1901 but did not declare his intention to become a citizen until 1917. On July 18, 1919, he was arrested under a warrant issued by the Department of Labor which charged "that he advocates the assassination of public officials and that he advocates the unlawful destruction of property."

Hearings were held on July 23, 1919, and September 16, 1919, before the United States Immigrant Inspector. The inspector found that the alien was a subject of Italy, that

he was an anarchist, that he believed in or advocated the overthrow by force or violence of the Government of the United States, and that he advocated the unlawful destruction of property and therefore should be deported.

After a hearing before the District Court for the Southern District of New York, a writ of habeas corpus was dismissed and the petitioner remanded to the custody of the Acting Commissioner of Immigration at the port of New York, for deportation. On appeal to the Circuit Court of Appeals, the order of the district court was affirmed and the alien deported. (United States *v.* Uhl, 266 F. 34.)

* * * *

The facts involved in the following case are of such great importance in immigration matters that it is best to set forth the entire opinion of the Supreme Court of the United States as delivered by Mr. Justice Stone:

"Vajtauer, appellant, was arrested in deportation proceedings on a warrant issued April 4, 1924, by the Assistant Secretary of Labor, charging that Vajtauer, an alien, had entered the United States, December 1, 1923, in violation of the Act of October 16, 1918, c. 186, 40 Stat. 1012, as amended by the Act of June 5, 1920, c. 251, 41 Stat. 1008, printed so far as relevant in the margin.[1] The particular violations of the statute alleged were that prior to or at the time of his entry, appellant (1) believed in and advo-

[1] The following classes are excluded from admission:

"(a) Aliens who are anarchists;

"(b) Aliens who advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group, that advises, advocates, or teaches, opposition to all organized government;

"(c) Aliens who believe in, advise, advocate, or teach, or who are members of or affiliated with any organization, association, society or group, that believes in, advises, advocates, or teaches: (1) the overthrow by force or violence of the Government of the United States or of all forms of law, . . .

"(d) Aliens who write, publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, distribution, publication, or display, any written or printed matter, advising, advocating, or teaching, opposition to all organized government, or advising, advocating or teaching: (1) the overthrow by force or violence of the Government of the United States or of all forms of law, . . ."

Section 2 provides for the deportation of those who at any time after entering this country are found to have been at the time of entry members of the excluded class.

cated the overthrow of the government of the United States or all forms of law; (2) wrote, published, circulated or had in his possession for circulation written or printed matter advocating opposition to all organized government; (3) wrote, published, circulated or had in his possession for circulation written or printed matter advocating the overthrow by force or violence of the government of the United States or of all forms of law.

After a hearing before an immigration inspector, and a review of all the proceedings by the Board of Review, the Secretary of Labor, upon the recommendation of that board, ordered deportation. While in the custody of the Commissioner of Immigration at the Port of New York, the alien assailed the legality of his detention in a petition for a writ of *habeas corpus* which was issued by the District Court for southern New York. Upon the return of the writ and after a hearing, that court dismissed the writ, remanded appellant to the custody of the Commissioner and stayed deportation pending an appeal. 15 Fed. (2d) 127. The case comes here on direct appeal, on the ground that appellant was denied rights guaranteed by the Fifth Amendment of the federal Constitution. § 238 Jud. Code, prior to the amendment of February 13, 1925.

The constitutional questions assigned are (1) that the deportation order was unsupported by any substantial evidence and consequently appellant was denied a fair hearing and deprived of his liberty without due process; (2) that the action of the immigration authorities in drawing certain inferences from his refusal to answer questions asked, deprived him of the protection against self-incrimination accorded by the Fifth Amendment.

Deportation without a fair hearing or on charges unsupported by any evidence is a denial of due process which may be corrected on *habeas corpus.* Cf. *Chin Yow* v. *United States,* 208 U. S. 8; *Kwock Jan Fat* v. *White,* 253 U. S. 454. But a want of due process is not established by showing merely that the decision is erroneous, *Chin Yow* v. *United States, supra,* 13, or that incompetent evidence was received and considered. See *Tisi* v. *Tod,* 264 U. S. 131, 133. Upon a collateral review in *habeas corpus*

proceedings, it is sufficient that there was some evidence from which the conclusion of the administrative tribunal could be deduced and that it committed no error so flagrant as to convince a court of the essential unfairness of the trial. *Tisi* v. *Tod, supra.*

The ultimate question presented by this record, therefore, is one of fact, whether the warrant of deportation was supported by any evidence that the alien when he entered the United States advocated opposition to all organized government or the overthrow of the United States government by force and violence, within the meaning of the statute. This requires a review of the evidence.

At the hearing before the immigration authorities on May 14, 1924, appellant, who was represented by counsel, was sworn as a witness, gave his name as Emanuel Vajtauer and his occupation as "Doctor of Psychology," and editor of the "Spravedlvost," a Bohemian newspaper published in Chicago. He testified that he resided in Illinois; that he entered the United States on December 1, 1923; and that he was a citizen of Czechoslovakia by birth. After answering other preliminary questions, he was then asked: "Why did you come to the United States?" Appellant's attorney then stated: "I will advise the alien not to answer any further questions until the evidence upon which the warrant is based will be presented here." [2] Appellant then stated that he would follow his attorney's advice, and gave no further testimony. The Immigration Inspector introduced in evidence a pamphlet, stated by him to bear the name of Dr. E. M. Vajtauer as author. An interpreter testified that it was Dr. Vajtauer's study of the Russian Revolution. The title, as printed in the record, was "Revolution and the Dictatorship of the

[2] It was argued here that the objection took this form because counsel at the hearing labored under the misapprehension that the former rules which entitled an alien at the beginning of the hearing to inspect the warrant of arrest and all the evidence on which it was issued, were still in force. These rules had been changed before the first hearing of May 14, 1924. Even if counsel was unaware of the changes at that time, the hearing was not resumed until August 27, 1924, when the government's case was closed. Counsel declined an invitation to have the alien testify in his own behalf or to permit his examination although all the evidence on which the warrant was based had been presented. No reason for his not testifying was given.

Proletariat, by Dr. E. *D*ajtauer, written in Moscow in the Spring of 1920." Translations of certain passages from the pamphlet by the interpreter were spread upon the record. Some of these excerpts merely gave an account of the Russian Revolution and the revolutionists' own justification for their overthrow of the Russian government. Others, printed in the margin, purported on their face to advocate the overthrow of government by revolution or force.[3] The Inspector also placed in evidence a newspaper published by the Slovak Labor Socialist Federation of America, containing a report of a speech stated in the record to have been made by a Dr. Vajtauer, the editor of the Bohemian daily, "Spravedlvost." In this address the causes and effects of the world war and of the revolutionary movements in Europe were described from

[3] "'Only when you kill the bourgeois-capitalist, only then you will be free. By this kind of primitive logic it is usually necessary to lead the revolting soldier, in order that he should not unnecessarily sacrifice himself and others.

* * * * *

"During the attack, the revolution must be merciless. It must destroy the old system, not leaving even a single stone unturned.

* * * * *

"The people, who suffered too long, will knock to the ground the socialist traitors and bourgeois, and will punish with death any attempt of resistance. They have a right to do that! Others have killed millions of their brothers previously. The lowest, the most suffering class of people has seized the rule into its own hands. It took away every chance of the murderers for further oppression and crime. It dictates quietly to the farmer vampires. It carries on the dictatorship of the proletariat!

"This is the first problem of the proletarian dictatorship, and that is to capture the murderers and traitors of the people, the imperialists, militarists, capitalists, bourgeoisie and social-democrats and prevent them from committing any further crimes.

* * * * *

"Should the Bohemian worker have as much courage as the Russian worker has, he would see quickly the necessity of seizing the rule of factory into his own hands and expell the owner of the factory who has no right to own the property of the factory. The plant, which is to supply the needs of the people, belongs to the people, and must be run only by the people, only by the working people. The means of production are not a private property, they are the people's property. Private property is only a masked loot of people's property. The government, which recognizes private property, is the government which recognizes the looting the people, and how the robbers are treated? They are treated so that they are not given chance to loot. The robber should be locked up, irons should be put on his wrists, and guard placed to watch him. . . .

* * * * *

"Revolution is a sudden expansion of the people which suddenly abolishes the injustice piled for centuries. The proletarian dictatorship is an armed guard of liberties gained by revolution.'"

the viewpoint of the proletariat. The speaker predicted a much fiercer revolutionary struggle in this country than that which took place in Europe and the concluding paragraphs, printed in the margin,[4] suggest at least that the speaker advocated such a revolution. Other documentary evidence received consisted of an abridged report of the "Fourth Congress of the Communist International, Meetings held at Petrograd and Mowcow, November 7 and December 3, 1922," containing a statement purported to have been made by a Dr. Vajtauer, Czechoslovakia, on Czechoslovakian affairs.

Under instructions of his attorney, appellant refused to answer further questions calculated to establish his identity with the author of the pamphlet and with the Dr. Vajtauer who made the address reported in the newspaper article and the Dr. Vajtauer who addressed the Congress of the Communist International.

A point much argued before us was whether § 23 of the Immigration Law of May 26, 1924, c. 190, 43 Stat. 165, which took effect before the hearing was closed, placed on appellant the burden of proving that he was not a member of a class of aliens excluded from entering the United

[4] "'Pointing out the proletariat of America, the speaker said, that when the time comes when the American proletariat, which have tasted a bit of the capitalistic luxuries, will find itself deprived of these luxuries, then the American proletariat will be much more revolutionary than that of Europe, it is hard to preach revolution to the full stomach, but once this stomach is empty it revolts, and seeks the means to obtain the supplies. The speaker pictured the American proletariat as a mole, which got hold of a bone thrown from the capitalistic table, to satisfy the hunger of this mole. He predicted much fiercer revolutionary struggle in this country than that which took place in Europe, much more blood will be shed in this country than was shed in Europe.

"Toward the end of his speech, the speaker predicted that the next large war will be between the European countries and America, because America being a creditor, would in due time demand the payment of debt from debtors, and these being poor, would try to repudiate the American debt, this naturally would lead to war, and it would be up to the proletariat to stop the war of this kind, because the proletariat once more would be asked to supply the army. The speaker pointed out the Communistic government of Russia as an example for the proletariat of the other countries of the world, further he said, that there is a probability of another great war and this war may be the war between the United States Proletariat countries of Europe, against the capitalistic America, and then the proletariat of America would find itself in the position either to fight the proletariat of Europe, or else fight against its own capitalists, and it is up to the conscientous leaders of the proletariat to prepare the workers for this fatal moment."

States by the Immigration laws. Section 23 provides in part: "and in any deportation proceeding against any alien the burden of proof shall be upon such alien to show that he entered the United States lawfully." It was plausibly urged that the language of the statute as well as its legislative history indicates that this clause relates only to the proof of the regularity of the alien's entry with respect to time, place, manner and the like, and not to his membership in an excluded class. But we find it unnecessary to consider this question, as we think that the record taken as a whole and without the aid of any statutory presumption presents some evidence supporting the deportation order.

We disregard the Moscow address as having no substantial bearing on appellant's membership in an excluded class. But the extracts from the pamphlet and the report of the Chicago speech, taken together, are at least some evidence tending to show that the author of them advised and advocated opposition to all organized government and the overthrow of the United States government by violence, and therefore could, as an alien, be excluded from admission into the United States by the provisions of § 1 of the Act of June 5, 1920, *supra,* or if admitted, deported if found to have been a member of an excluded class at the time of entry (§ 2). Statements made before or after entry may be taken to indicate that he was subject to exclusion at the time of entry.

The only other issue on which the government was required to present evidence, assuming that the burden of proof rested on it, was the identity of the appellant, admittedly an alien, with the author of the pamphlet and the address. The similarity of names; the fact that each was known as "Doctor"; that a Dr. Vajtauer, also of Czechoslovakia, as was appellant, addressed the Fourth Congress of the Communist International on Czechoslovakian affairs in Moscow where the pamphlet was written, and that after the arrival of appellant in the United States and his proceeding to Chicago, a Dr. Vajtauer, who was editor of the Bohemian daily paper, "Spravedlvost," as was appellant, made a public address in Chicago, discussing the

Russian revolution and suggesting the possibilities of a similar revolution here, all taken together admit of the inference that the appellant and the author of the pamphlet and speech were one and the same person. This inference was strengthened when the appellant, confronted by this record, stood mute.

"Conduct which forms a basis for inference is evidence. Silence is often evidence of the most persuasive character." *Bilokumsky* v. *Tod,* 263 U. S. 149, 153-4. Appellant as a witness was called upon to testify whether he was the author of the pamphlet and the Chicago speech, facts within his knowledge. If the author, he was in a position to challenge or explain away if possible any unfavorable inference which might be drawn from the passages read into the record. His silence without explanation other than that he would not testify until the entire evidence was presented, was in itself evidence that he was the author. In addition, it fortified the inferences drawn from the pamphlet and speech by the immigration authorities.

Attention is directed to the fact that the refusal to testify was based upon a supposed right of the witness not to be called upon to testify until all the evidence in support of the warrant was presented, and it is said that if silence is induced by a person's "doubts of his rights or by a belief that his security will be best promoted by his silence; then no inference of assent can be drawn from that silence." *Commonwealth* v. *Kenny,* 12 Metc. 235, 237; *People* v. *Pfanschmidt,* 262 Ill. 411, 449. But these cases merely apply the rule that no inference may be drawn from silence where there is no duty to speak, a rule which is not applicable where the witness is sworn and under a legal duty to give testimony which is not privileged. Undoubtedly, inferences from silence should be cautiously drawn, *Bilokumsky* v. *Tod, supra,* but the weight to be given to silence is for the tribunal conducting the trial.

It is said also that the evidentiary effect of silence was limited by the decision in *Bilokumsky* v. *Tod, supra,* to a refusal to testify as to non-incriminating facts only. Although the inference from silence in that case pertained

to non-incriminating facts, there was no intimation there that inferences could not be drawn from a failure to testify to incriminating matters which are not privileged. Here as in that case the objection to drawing the inference can have force only in so far as there was a denial of the constitutional immunity.

It is insisted that answers to the questions put to appellant at the hearings which were held in Chicago might have tended to incriminate him under the Illinois Syndicalism Law, Ill. R. S. 1925, c. 38, §§ 587–593, which condemns as a felony the advocacy or publication of matter advising crime or violence or other unlawful means of accomplishing the reformation or overthrow of the government. Assuming that the constitutional immunity against self-incrimination may be violated as well by inferences drawn from silence with respect to incriminating matters as by testimony which the witness is compelled to give, still it is necessary to inquire whether the appellant here has brought himself within the protection of the immunity.

Throughout the proceedings before the immigration authorities, he did not assert his privilege or in any manner suggest that he withheld his testimony because there was any ground for fear of self-incrimination. His assertion of it here is evidently an afterthought. It is for the tribunal conducting the trial to determine what weight should be given to the contention of the witness that the answer sought will incriminate him, *Mason* v. *United States,* 244 U. S. 362, a determination which it cannot make if not advised of the contention. Cf. *In re Edward Hess & Co.,* 136 Fed. 988; *Ex parte Irvine,* 74 Fed. 954, 960. The privilege may not be relied on and must be deemed waived if not in some manner fairly brought to the attention of the tribunal which must pass upon it. See *In re Knickerbocker Steamboat Co.,* 139 Fed. 713; *United States* v. *Skinner,* 218 Fed. 870, 876; *United States* v. *Elton,* 222 Fed. 428, 435. This conclusion makes it unnecessary for us to consider the extent to which the Fifth Amendment guarantees immunity from self-incrimination under state statutes or whether this case is to be controlled by *Hale* v.

Henkel, 201 U. S. 43; *Brown* v. *Walker,* 161 U. S. 591, 608; compare *United States* v. *Saline Bank,* 1 Pet. 100; *Ballmann* v. *Fagin,* 200 U. S. 186, 195.

Judgment affirmed.

(Vajtauer *v.* Comm'r of Immigration, 273 U. S. 103.)

* * * *

Section 1 of the act of October 16, 1918, contains the following:

"Aliens who are members of or affiliated with any organization that entertains a belief in, teaches, or advocates the overthrow by force or violence of the government of the United States . . . shall be excluded from admission into the United States."

Section 2 provides for the deportation of such aliens, irrespective of the time of their entry. In June, 1920, petitions for writs of habeas corpus were brought by or in behalf of 20 aliens against the Commissioner of Immigration at Boston, Mass., to procure their release under warrants of arrest or for deportation. The sole charge against these aliens was membership in the Communist Party or the Communist Labor Party. The government contending that both parties are committed to a scheme to overthrow our government by force or violence.

At the end of a hearing lasting more than two weeks, the District Court held that the immigration authorities have no legal right to deport these aliens unless there was some evidence tending to show that the Communist Party "believes in, advocates or teaches the overthrow of the United States by force or violence" within the fair meaning of the words "overthrow," "force," and "violence" as used in the statute. The court found no evidence that the Communist Party is an organization advocating the overthrow of the Government of the United States by force or violence.

The aliens held under warrants for deportation were discharged, and those held under warrant for arrest were released on bail pending the final decision by the Department of Labor. (Colyer et al v. Skeffington, 265 F. 17. This decision was reversed in the following case of Skef-

fington *v.* Katzeff, 277 F. 129. See also Bonder *v.* Johnson, 5 F. (2d) 238.)

* * * *

An alien who entered the United States through an unknown port on or about January 1, 1919, was taken into custody for deportation on the 9th day of January, 1920, on a warrant issued by the Acting Assistant Secretary of Labor. The grounds for arrest were that the alien was a member of the Communist party and that he advocated the overthrow of government by force or violence and that he was a dangerous radical. At the hearing, the alien claimed to have entered the United States in July, 1913. He denied believing personally in the overthrow of government by force. He stated that although he did not sign any application for membership in the Communist party, he would make no attempt to withdraw from that party, of which he was an avowed member.

In a habeas corpus proceeding the District Court D. of Minnesota Fourth Division, dismissed the writ and remanded the alien to the custody of the immigration authorities for deportation. The Court stated that it is now settled that the Communist party is an organization which believed in the overthrow by force or violence of the government of the United States and that alien members of such party are subject to deportation. (Ex parte Jurgans, 17 F. (2d) 507.)

* * * *

Four aliens were arrested on January 3, 1920, upon warrants issued by the Department of Labor on the charge that they were alien members of or affiliated with an organization that entertains a belief in, teaches, or advocates the overthrow by force or violence of the Government of the United States or of all forms of law or that entertains or teaches disbelief in, or opposition to, all organized government. That they were members of the Communist party.

After a hearing before the immigration inspector, the Commissioner of Immigration recommended that they be deported. The Assistant Secretary of Labor approved the recommendation and a warrant for the deportation from this country of each of the aliens was issued by him.

The United States District Court for the District of Massachusetts ordered the aliens discharged from the custody of the immigration authorities on the ground that there was no evidence before the Immigration Inspector tending to show that the communist party to which the aliens belong believes in, advocates, or teaches the overthrow of the United States Government by force or violence within a fair meaning of the words "overthrow, force, and violence" as used in the Act approved October 16, 1918. (265 F. 17.)

On appeal to the Circuit Court of Appeals, the decree of the District Court was reversed. The Court of Appeals after quoting parts of the manifesto of the Communist International, and the manifesto and constitution of the Communist Party of America, stated:

"We think it would be going far afield to say that, from such statements of purpose, no reasonable man could reach the conclusion that force and violence are the necessary instrumentalities for its accomplishments and are contemplated, and that, if consummated, it would overthrow government as now instituted. On the contrary, it seems to us that a program which advocates the disarmament of the armed forces of the existing state, the arming of the laborer and the formation of a communist army to protect the rule of the proletariat affords substantial evidence that the communist party, of which the relators are confessed and avowed members, teaches and advocates the overthrow of government by force and violence."

The aliens were deported. (Skeffington *v.* Katzeff, 277 F. 129.)

* * * *

One Lisafeld, a native of Jugo-Slavia, entered the United States in 1912. In 1919, he joined the Communist party at Buffalo, N. Y., and regularly paid his dues. He frequently attended lectures and was familiar with the manifesto of the Communist party, and was in accord with the teachings and beliefs of its manifesto and constitution. On September 13, 1924, a warrant was issued for his deportation to his home in Jugo-Slavia. He then

petitioned the District Court W. D. of New York for a writ of habeas corpus.

The Court decided as follows: "It is firmly established that Congress has preliminary power to order the deportation of undesirable aliens domiciled in the United States. It has the power, for example, to direct the deportation of any alien who believes in or advocates the overthrow by force or violence of the government of the United States, or of all forms of law, or any aliens who disbelieve in, or are opposed to, all organized government. Act of Congress October 16, 1918, as amended June 5, 1920. And the Department of Labor is specifically required to perform the duties imposed in that particular.

"If, however, a proceeding pending before it, or before a subordinate officer thereof, is shown to be unfair or lacking in due observance of the material elements of due process of law, or if errors of law were committed in the deportation of an alien, the federal courts are empowered by writ of habeas corpus to inquire into any asserted unlawful detention.

"A fair and impartial summary hearing was accorded the relator and he was represented by consul.

"His declared adherence to the principles of the Communist party and his asserted belief in its teachings show conclusively that he is an undesirable alien and subject to deportation."

The writ of habeas corpus was dismissed and the alien was deported to Jugo-Slavia. (U. S. ex rel. Lisafeld *v.* Smith, Immigration Inspector, 2 F. (2d) 90.)

* * * *

An alien who has in his possession for the purpose of circulation and distribution written and printed matter advising, advocating, and teaching opposition to all organized government, may be arrested and deported if he has knowledge of the contents of such written and printed matter. (Gebartus *v.* Paul, C. C. A. 3 F. (2d) 145.)

* * * *

Tisi, an alien, was arrested in deportation proceedings as being in the United States in violation of law, charged

with knowingly having in his possession for the purpose of distribution printed matter which advocated the overthrow of the government of the United States by force.

A petition of habeas corpus was filed in the District Court. After a hearing the writ was dismissed and the alien remanded to the custody of the Commissioner of Immigration at the port of New York. An appeal was then granted to the Supreme Court of the United States, based on the claim that the alien was denied due process of law guaranteed by the Federal Constitution and that there was no evidence to sustain the finding that he knew the seditious character of the printed matter. The printed matter found consisted of leaflets in the English language. The alien testified that he cannot read English; that he did not know the character or contents of the leaflets. The contention is that the Secretary of Labor erred in deciding that there was substantial evidence that the alien had knowledge of the character of the leaflets.

The court held that the denial of a fair hearing is not established by proving merely that the decision was wrong. (Chin Yow *v.* United States, 208 U. S. 8); even if it consists in finding an essential fact without adequate supporting evidence, it is not a denial of due process of law, unless the error of the administrative tribunal was so flagrant as to convince a court that the hearing had was not a fair one. The decision of the lower court was affirmed and the alien deported. (Tisi *v.* Tod, 264 U. S. 131.)

* * * *

An alien, 28 years of age and married, arrived in the United States in 1913. He became associated with the Communist Party, the Worker's International Union, American Federation of Labor, and was secretary of the Communist Party in St. Louis, Mo. He had been distributing *Znage,* a paper of the Communist Party, and subscribed to the *Workingman's Defender* and the *Nova Istima.* About 112 different anarchistic publications were found in his possession, together with Socialist buttons and red flags, all for the purpose of distribution among members of his party. He admitted to government officials that he believed in

changing the government of the United States to the soviet form of government by political action.

In 1919 he was arrested on the charge "that he has been found advocating or teaching anarchy; that he is an alien anarchist; that he advocates the overthrow by force or violence of the government of the United States; that he advocates the overthrow by force or violence of all forms of law; that he advocates the assassination of public officials; and that he advocates the unlawful destruction of property."

After a full hearing before the Labor Department and ample opportunity to present any defense he might have, he was ordered to be deported. He then sued out a writ of habeas corpus which was dismissed by the District Court for the Eastern District of Missouri and his appeal to the Circuit Court of Appeals for the Eighth Circuit was also dismissed. While at Ellis Island, in the port of New York, awaiting deportation, he obtained a writ of habeas corpus in the District Court for the Southern District of New York. This writ was dismissed and an appeal was then taken to the Circuit Court of Appeals, Second Circuit. This court held that the admissions made by the alien, of membership in these associations, his possession of the publications referred to, and his intention to distribute them, are sufficient to warrant deportation. Even though he did not know the contents of all the literature that he was circulating, it is sufficient on which to deport him. (United States ex rel. Vojewvic *v.* Curran, 11 F. (2d) 683.)

* * * *

An alien man and woman have resided in the United States for more than twenty-five years. They are both natives of Mexico. They have lived together in a state of adultery for fifteen years. Both of them have been previously married but their respective spouses have abandoned them in each case for more than three years before they entered into their present relations. They continued to reside near the border line of Mexico and have frequently crossed over to Mexico by means of a bridge and ferries going and returning the same day.

On one of these trips they were stopped by immigration

inspectors and on the statement that the woman was his wife, they were both permitted to return to the American side. Shortly thereafter, they were taken into custody for deportation on the grounds that the man has been convicted of, or admits having committed, a crime involving moral turpitude prior to his entry into the United States, to wit, adultery; and that he imported or attempted to import a woman for immoral purposes. As to the woman, she was charged with entering by means of false and misleading statements, thereby entering without inspection; that she was a person likely to become a public charge at the time of her entry; that she had been convicted of or admits having committed a crime involving moral turpitude prior to her entry into the United States, to wit, adultery; and that she entered the United States for an immoral purpose.

In a habeas corpus proceeding the District Court, S. D. of Texas, at Laredo, denied the writ and the aliens were ordered deported. The Court, however, was of the opinion that the strict application of the immigration laws in this instance was too severe and drastic. The Court stated: "It is only the technical and legal sufficiency of the warrant which the Court has power to examine. The findings of the Secretary are final if they are in accordance with the Law. I cannot refrain from saying, however, that such a literal, drastic, and harsh application of the law as this case furnishes was not, in my opinion, intended by the framers of it, since under the undisputed facts these persons have been in every respect as man and wife, and would be under the laws of Texas united in a common law marriage, but for the legal impediment of their prior marriages. Certainly, it is a far fetched conclusion to arrive at that these persons, who have been in the United States for twenty-five years, and living in the same state in which they are now found for 15, have suddenly become without any change of status whatever, inimical to the welfare of this country, and persons who ought to be removed from it." (Ex parte Rodriguez, 15 F. (2d) 878.)

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One Bilokumsky, is said to have entered the United States in 1912. Some time after, but prior to his arrest for deportation, he was confined to Moyamensing Prison, Philadelphia, on charges made by city authorities that he had violated the state sedition law. In May, 1921, he was arrested in deportation proceedings upon a warrant of the Secretary of Labor as being an alien within the United States in violation of law. The specific ground was having in his possession for the purpose of distribution printed matter which advocated the overthrow of the government. Bilokumsky claimed to be a citizen of the United States but did not support his claim by substantial evidence.

At the hearing under the warrant of the Secretary of Labor, all facts necessary to establish that Bilokumsky had in his possession for purpose of distribution printed matter which advocated the overthrow of the government of the United States were proved by evidence to which there was no objection. To prove that Bilokumsky is an alien, he was called as a witness and was sworn; but when questioned by the immigration inspector, under advice of counsel, stood mute, refusing even to state his name. After his refusal to answer, the Government introduced a report of his examination in Moyamensing Prison, although duly objected to by counsel, where, in answer to questions so put he admitted that he was an alien, but denied that he had done anything which rendered him liable to deportation. He asserted that because of the manner in which the evidence of alienage was procured the warrant of deportation is a nullity, and that there was no legal evidence of alienage. After this hearing a warrant of deportation was issued and he was placed in custody of the Commissioner of Immigration at the port of New York. A petition for a writ of habeas corpus was then filed in the District Court.

That court dismissed the writ after a hearing; remanded the relator to the custody of the Commissioner; allowed an appeal; and stayed deportation until further order. The case was then carried to the Supreme Court of the United States, the claim being that the relator was denied rights guaranteed by the Federal Constitution; that he was deprived of due process of law.

The Supreme Court decided that there was no lack of due process of law. "To render a hearing unfair the defect, or the practice complained of, must have been such as might have led to a denial of justice, or there must have been absent one of the elements deemed essential to due process . . . If, in the deportation proceedings, Bilokumsky had claimed that he was a citizen and had supported the claim by substantial evidence, he would have been entitled to have his status finally determined by a judicial, as distinguished from an executive tribunal. (Ng Fung Ho *v.* White, 259 U. S. 276.) But he made no such claim at that time; nor does he now contend, by allegation in his petition for habeas corpus, or otherwise, that he is a citizen of the United States. . . . There was strong reason why he should have asserted citizenship, if there was any basis in fact for such a contention. Under these circumstances his failure to claim that he was a citizen and his refusal to testify on this subject had a tendency to prove that he was an alien. . . . To defeat deportation, it is not always enough for a person arrested to stand mute at the hearing and put the Government upon its proof." The order of the District Court was affirmed and the alien deported. (Bilokumsky *v.* Tod, 263 U. S. 149.)

* * * *

Section 19 of the immigration act of February 5, 1917, provides:

"That any alien who within five years after entry becomes a public charge from causes not affirmatively shown to have arisen subsequent to landing . . . shall upon the warrant of the Secretary of Labor be taken into custody and deported."

A native and subject of Italy came to the United States in 1909, and remained here until 1915 when he volunteered to fight for Italy in the World War. After serving in the war he returned to the United States in July, 1920. One week after his arrival he was sent to a hospital in New Haven, Connecticut, and from there committed to the State Hospital for insane, suffering from dementia præcox due to causes existing prior to his last entry into the United States.

In April, 1924, the Secretary of Labor issued a warrant for his arrest and deportation on the ground that he was a person likely to become a public charge at the time of his entry, and that he had become a public charge in the State Hospital within five years after his last entry.

On a writ of habeas corpus the District Court found that there was sufficient evidence before the immigration authorities to establish the fact that prior to his last entry the applicant was afflicted with a form of disease known as dementia præcox which is incurable, and that, in reviewing departmental action under a statute of this nature, the finding of the department is binding on the court. The writ was dismissed (Ex parte La Matina, 6 F. (2d) 468.)

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An alien woman was admitted to the United States in September, 1923. In April, 1924, it was charged that at the time of her entry she was a person likely to become a public charge, and that at the same time she was a person of constitutional psychopathic inferiority. After hearings by the immigration authorities and an appeal to the Secretary of Labor, the charges were upheld and she was ordered to be taken into custody and deported. While deportation proceedings were pending, she was married to a citizen of the United States.

Habeas corpus proceedings were sued out to test if she can be deported after such marriage. The District Court denied the writ and an appeal from such denial was then taken to the Circuit Court of Appeals, Ninth Circuit. The Appeals Court affirmed the order of the District Court, citing section 2 of the act of September 22, 1922, where it expressly provided that any woman who marries a citizen of the United States after the passage of the act shall not become a citizen of the United States. Nor has she the right of naturalization under special compensatory provision in the act by virtue of her marriage, as that would defeat the policy of Congress to prevent the introduction and keeping in the United States aliens, who are feeble-minded, or insane persons and others within the excluded classes. (Gomez *v.* Nagle, 6 F. (2d) 520.)

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One Savitsky, was permitted to enter into the United States from Canada. He was a Russian by birth and a naturalized citizen of Canada. He arrived in New York in December, 1916, and after being in Brooklyn two weeks, entered into partnership with his brother.

The immigration officials were informed that before leaving Canada, Savitsky had issued a check for $113 which proved bad; and that he was also accused of wrongfully retaining money belonging to another, obtained before leaving Canada. These charges were neither proved nor admitted. He was arrested and ordered deported as a person likely to become a public charge. In a habeas corpus proceeding, the United States District Court discharged the alien. The Government appealed to the Circuit Court of Appeals. That court affirmed the order of the District Court, saying that an immigrant may not be deported or excluded on the theory that because of charges of dishonesty, which are neither proved nor admitted, he would become a public charge. Congress meant by "likely to become a public charge," persons who were likely to become occupants of almshouses for want of means to support themselves. The alien was discharged. (Howe *v.* United States, 247 F. 292.)

* * * *

An alien came to this country from Greece in November, 1923, and landed at Providence, R. I. In April, 1924, the Second Assistant Secretary of Labor issued a warrant for her arrest for the purpose of deportation on these grounds: (1) "That she entered the country without a properly visaed passport; (2) that she entered it by false and misleading statements; (3) that she was likely to become a public charge." After a hearing, the District Director of Immigration in May, 1924, reported to the Department of Labor that all the regular procedure was had and it was found that the alien did not gain admission "by false and misleading statements made by herself"; that she was not a person "likely to become a public charge at the time of her entry," but that "she entered without a properly visaed

passport''; and because of that recommended she be deported. Thereupon the Secretary of Labor issued his warrant for her deportation under section 19 of the immigration law of Feb. 5, 1917, as amended May 22, 1918 and 1919, and the President's proclamation thereunder for ''knowingly'' using a passport to enter, ''not issued or designed for her use,'' thereby giving different grounds for the warrant for deportation than those found in the warrant of arrest.

On petition for habeas corpus the District Court found and ruled: that the fact that the warrant of arrest was not for the same causes as for deportation was not sufficient cause for issuing the writ. The alien was then remanded in custody for deportation. On appeal to the Circuit Court of Appeals the decree of the District Court was reversed. The Appeals Court holding that if she is to be deported for ''knowingly'' using a passport to enter, ''not issued or designed for her use,'' it can be done only upon a finding to that effect by the District Director of Immigration after a hearing before him on such charge.

The alien was ordered discharged from custody. (Throumoulopolou *v.* United States, 3 F. (2d) 803.)

* * * *

In September, 1923, an alien entered the United States from Canada for a temporary visit. Soon after her entry she obtained employment as a domestic servant. On February 8, 1924, while so employed she applied for permission to remain in the United States permanently, and agreed to pay the head tax. Permission to remain was refused and after the time of her visit expired she was taken into custody for deportation and after a hearing was ordered to be deported. On a writ of habeas corpus the petitioner claimed to be within one of the exceptions provided for in the quota act which provides: That a domestic servant may be admitted regardless of quota if such servant has been previously employed either in the United States or any foreign country, in the household of the person to whom she is destined in the United States for the purpose of continuing such employment.

The United States District Court held that the only question to be considered is: What was her status on February 8, 1924, the time she applied for admission to remain permanently? She was at that time actually employed in the United States as a servant in the household of a resident of the United States. Therefore she was in the same position as if she had recrossed the border and then applied for admission to enter the United States to continue her employment; in which case she would be within the quota exemption. The court ordered her discharge from custody and that she be permitted to remain here permanently after paying the head tax required by law. (Ex. parte Jarvis, 5 F. (2d) 749.)

* * * *

An alien boy 19 years of age, born in Armenia, Turkey, landed at the port of New York in May, 1920. In April, 1921, he was arrested in Philadelphia, for distributing circulars, some of which were headed "May Day," "Red Labor Day," and others "May Day Revolution"; upon the charge that he was distributing printed matter advising the overthrow by force or violence of the Government of the United States. The alien was examined through an interpreter and stated that a man gave these circulars to him for distribution, paying him a few dollars for his services. He stated that he could not read or write English and therefore could not read any of the circulars. That he at no time was connected or associated in any manner with any so-called "Red" organizations or associations for spreading anarchistic doctrine or propaganda.

He was tried and found guilty and after a hearing was ordered deported. A writ of habeas corpus brought the alien before the United States District Court. The court found no evidence that the alien knowingly committed the act of distributing printed matter advising the overthrow of the Government as he had no knowledge of the contents or character of the literature distributed by him. He was ordered discharged. (United States *v.* Hughes, 278 F. 262.)

* * * *

At an investigation held by the United States Department of Labor Immigration Service at Providence, Rhode

Island, June 8, 1922, one John Guest, accompanied by his wife, is alleged to have entered the United States from Canada. On entering the United States he gave his business as a dry goods merchant. Upon arrival, this man immediately secured work as a machine printer at a calico print company in Pawtucket, Rhode Island.

A warrant for their deportation was obtained September 23, 1922, by the Second Assistant Secretary of Labor, stating that "they have been found in the United States in violation of the Immigration Act of February 5, 1917." Under a provision of this act "the woman was a person likely to become a public charge at the time of her entry, and that both aliens entered by means of false and misleading statements, thereby entering without inspection."

The principal charge against the husband was that he made a false statement when he told the inspector he was a merchant, when in fact he was a calico printer. The District Court held that if they made inaccurate statements, they did not do so with the intent to gain admission which the statute denied them as members of an excluded class of objectionable aliens. The court ordered the discharge of the husband and wife from custody. (Ex parte Guest, 287 F. 884.)

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Josepha Rukerova, an alien, 23 years of age, arrived at the port of New York from Czecho-Slovakia on June 27, 1920, and was duly admitted to this country as an alien. She lived here continually, and has since earned her living by working in a factory and later as a domestic servant. While engaged as such servant she met a married man who was separated, by agreement, from his wife. The separated wife made complaint to the immigration authorities that this servant was living in a state of adultery with her husband. Thereupon a warrant for her arrest for deportation was issued charging that she was likely to become a public charge by reason of her acts of immorality.

The husband admitted the adulterous relations; that he employed her as a domestic for his household, and that he paid her $50 a month; that she knew he was married. After a hearing, a warrant of deportation was issued,

directing that she be returned to the country from which she came, because she had been found in the United States in violation of the immigration act of February, 1917, to wit: that she was a person likely to become a public charge at the time of her entry. At the time of her arrest, in 1924, the alien testified that she was working as a maid in a gainful occupation, and not living with the man in question and had no intention of living with him.

Habeas corpus proceeding was instituted in the United States District Court, S. D. of New York, against the Commissioner of Immigration. The writ was dismissed, and the relator appealed. The Circuit Court of Appeals, Second Circuit, reversed the order of the District Court, stating:

"Assuming it to have been established that the appellant did have such improper relations, the prospect of her becoming a public charge is indeed remote and conjectural. Such conjecture or speculation would establish a rule that might endanger the continued residence of any immigrant. An immigrant might enter the country and be a failure in business or in securing gainful occupation, and by the same token it might be reasoned that he or she would be likely to become a public charge. It is possible that the appellant might so demean herself as to come in conflict with the criminal laws, but we may not say that this is probable. . . . There is no evidence to support the commission, whose decision has been approved by the Secretary of Labor, that she was a person likely to become a public charge at the time of her entry into the country because of her conduct subsequent to entry. When the record shows that the Commissioner of Immigration exceeds his power, the alien is entitled to her release on a writ of habeas corpus. The conclusiveness of the decision of the immigration officials is conclusive upon the matter of fact. (Gegiow *v.* Uhl, 239 U. S. 31, 36 S. Ct. 2, 60 L. Ed. 114.) But where there is no evidence upon which to base a finding of fact, it is without legal support." The alien was released from custody. (United States Ex. Rel. Mantler *v.* Commissioner of Immigration, 3 F. (2d) 234.)

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One Stella McMahon came to the United States from Canada on or about January 15, 1909. On the 5th day of November, 1921, she was married to Frank McMahon, a native-born citizen of the United States. Since their marriage they lived together at Butte, Montana, until about May, 1924, when she came to Tacoma, Washington, for the purpose of purchasing a rooming house and acquiring a home. She was arrested and charged with soliciting prostitution in the City of Tacoma on May 9, 1924. The following day she pleaded guilty and was fined $50, which was paid.

On May 10, 1924, she was arrested and on June 14th following ordered deported for being in the United States in violation of the immigration act of 1917, in that she had been practicing prostitution after her entry into the United States. Application was made to the District Court W. D. of Washington N. D., on October 3, 1924, for a writ of habeas corpus to restrain the order for deportation.

The court found that upon her marriage on November 5, 1921, to McMahon she became the lawful wife of a native-born citizen of the United States. She was married before her arrest and before the commission of the act charged and therefore is not subject to deportation upon the facts presented. The writ was maintained. (Ex parte McMahon, 1 F. (2d) 456.)

* * * *

A boy nineteen years of age arrived at the port of New York in possession of a non-quota consular visa, as a bona fide student. He presented credentials to show that he was a graduate of a technical institute in Italy and had been granted admission as a student at Columbia University.

He was ordered excluded on the ground that he was not a non quota immigrant within Section 4, subdivision (e), of the Immigration Act of 1924, and that he was not a bona fide student as he had no means to support himself nor pay for his tuition. Therefore he could not continue as a student.

In a habeas corpus proceeding the District Court, S. D. of New York, dismissed the writ. On appeal to the Circuit

Court of Appeals, Second Circuit, the order of the District Court was reversed and the alien was ordered to be discharged from custody. The Court was divided. Circuit Judge Hand wrote a dissenting opinion. The majority of the Court held that a student may work his way through College by engaging in any kind of occupation while pursuing his studies. He may alternate periods of work with periods of studies while he remains a student. Such work for self-support does not deprive him of the status of a bona fide student. It is only when he completely gives up his studies in a college and engages in any business or occupation for a profit, that he shall be deemed to have abandoned his status as a bona fide student, and therefore subject to deportation. (United States ex rel. Antonini *v.* Curran, 15 F. (2d) 266.)

* * * *

Frederick M. Tozier came to this country from Canada in 1912 and for many years practiced medicine in the state of Oregon. On or about January 24, 1923, he went to Montreal, Canada, on a visit. He remained in Canada two days and returned to this country January 26, 1923. He had never declared his intention of becoming an American citizen.

In 1922, several indictments had been returned into the United States District Court of Maine against various persons, among them two United States narcotic inspectors, for a conspiracy to extort money from physicians and others by threats of prosecution for violations of the Narcotic Drugs Act. Two indictments were returned against Tozier in this connection. When the case was tried in December, 1922, Tozier was called and testified as a government witness, with the understanding of the United States Attorney and of the District Judge that he would not be prosecuted if he so testified, and assurances to that effect were given him by the United States Attorney. As a result of such testimony, one of the United States inspectors was convicted and sentenced to prison.

In February, 1923, deportation proceedings were instituted against Tozier, for deportation based on his admis-

sion of having committed the crimes of extortion, bribery, or conspiracy, and that he was likely to become a public charge. After several hearings the proceedings were dropped. In July, 1923, another warrant proceeding was instituted against him upon the same grounds and further hearings were held, whereat it was found that, as there were outstanding indictments against Tozier on which he might be convicted, he was therefore a person likely to become a public charge.

On appeal, the Board of Review found in favor of the alien on the allegation that he was likely to become a public charge, but found that the transcript of Tozier's testimony in U. S. *v.* Fry (the narcotic drug case referred to above), sustained the charge that he had admitted the commission of a crime sufficient to warrant deportation.

A writ of habeas corpus was issued out of the United States District Court D. of Maine, and petitioner was brought before that court on April 5, 1924. The court found that Tozier's testimony in the Fry case, taken as a whole, does not warrant the finding of a crime as charged in the deportation warrant. That the deportation proceedings appear to be in substance a breach of faith on the part of the government towards the petitioner, as he was promised immunity if he would assist in making evident the truth of a serious crime.

The petitioner was discharged from custody and permitted to remain in this country. (Ex parte Tozier, 2 F. (2d) 268.)

The decree of the District Court was affirmed by the Circuit Court of Appeals Third Circuit. (Howes *v.* Tozier, 3 F. (2d) 849.)

* * * *

An alien was ordered deported on the grounds: "That he was a person likely to become a public charge at the time of the entry; that he has been convicted of, or admits commission of a felony or other crimes or misdemeanors involving moral turpitude, to wit, adultery, prior to his entry into the United States."

In a habeas corpus proceeding the District Court dismissed the writ. The Circuit Court of Appeals, Sixth

Circuit, reversed the order of the District Court with directions to discharge the petitioner from custody. The Appeals Court found that the order for deportation was based solely upon the finding of the Second Assistant Secretary of Labor that the alien was likely to become a public charge at the time of entry, and that he admitted the commission of a misdemeanor involving moral turpitude, to wit, adultery, prior to his entry into the United States.

The finding that the alien was likely to become a public charge at the time of entry is not sustained by any evidence. He was then 39 years of age, in good health, and a skilled carpenter. No evidence was offered by the government to prove the law of Italy in reference to the offense of adultery or that the facts admitted by the alien constituted an offense under the terms and provisions of the Italian laws; and that no evidence whatever was offered tending to prove that he had been convicted of any offense.

The decree of the District Court was reversed and petitioner ordered discharged from custody, for the reason that the findings upon which the warrant of deportation was based, are not sustained by any evidence. (Ex parte Sturgess, 13 F. (2d), 624.)

* * * *

In January, 1921, Francesco Paolo Lisotta, 26 years of age, and a native of Italy, arrived at the port of New York, and was duly admitted as an alien. Since he came into the United States and until his arrest in 1924 upon a charge of having violated the National Prohibition Law, he was constantly engaged in good paying hard work. He married a girl of American birth in October, 1923. Prior to his arrest for the violation of the Prohibition Act, he had never been accused of or apprehended for any crime or misdemeanor. For the one offense, that of having made three gallons of whiskey for his own use, although he did not sell any of it, he was sentenced by the U. S. District Court, E. D. of Texas on April 7, 1924, to serve three months in jail and to pay a fine of $300. After serving four months he was discharged from further imprisonment.

A warrant for his deportation was issued July 26, 1924, by the Second Assistant Secretary of Labor, charging that

the alien was a person likely to become a public charge at the time of his entry and the alien was taken into custody. The District Court denied a writ of habeas corpus, the petition was dismissed, and the alien was remitted to the custody of the Immigrant Inspector for deportation.

An appeal was then taken to the Circuit Court of Appeals, Fifth Circuit. That court held that there was no condition existing at the time of his entrance making it likely that he would become a public charge, and so there being no reason for the deportation of the appellant, the warrant for his deportation should have been declared of no effect and no justification for restraining or deporting him. Following is the statement of the court:

"It is urged in support of the judgment refusing to release the appellant from the custody of the immigrant inspector that the finding of the administrative officer, here the Second Assistant Secretary of Labor, that Lisotta was on January 21, 1921, a person, when he was regularly admitted to enter the United States as an immigrant, likely to become a public charge and should have been excluded under section 19 of the act of February 5, 1917, is conclusive, and was not open to inquiry by the District Court or judge, and that therefore the warrant for the deportation of the alien upon such finding cannot be disturbed, and that Lisotta, the alien, must now be deported. This contention cannot be sound, for the law controlling the administrative authorities does not, and indeed could not, confer such autocratic power. It is true that under the act of Congress such administrative officer has large discretion in the exercise of the powers committed to him, and wisely so, in order that there may be prompt and effective enforcement of the public policy and the law of restrictive immigration, including the deportation of any alien who is forbidden to remain in the United States because his presence is inimical to the public interest. But even this power, as necessary as it may be, is subject to review upon habeas corpus when the administrative officers have manifestly abused the power and discretion conferred upon them.

"The controlling rule is that, if the proceedings for deportation are fairly conducted as authorized by the stat-

ute, and the finding sustaining the charge preferred for deportation is supported by substantial evidence, then in such case, and in such case only, is the decision of the department or administrative officer conclusive upon the courts. To hold to the contrary would be to say that the alien, 'the stranger in our midst,' has no right to remain here, although he may have legally come in and is guilty of no offense denounced by law as cause for deportation, if the judgment or whim of an administrative officer shall have decreed his expulsion upon any ground that he might deem sufficient in law and fact. Congress never intended to confer, and moreover, it could not have conferred, such power. The alien who has entered with the approval of the immigration authorities (such is the case here) has the right to remain here unless and until it is shown, as directed by the law and upon some ground given in the law, that his coming in was itself unlawful, or that his remaining here is unlawful as defined in the Congressional enactment. Even then it is required that he be accused; then also it must be shown by substantial evidence that he has no right to remain, and therefore is amenable to the deportation provisions of the law.

"It is settled that the decision by the Secretary of Labor in such a case as we have here is not conclusive upon the courts, if it be shown that the proceedings were manifestly unfair, or such as to prevent a fair investigation of the case of the alien, or there was abuse of the discretion committed to the administrative officer, or that his authority was not fairly exercised consistently with the principles of justice embraced within the conception of due process of law.

"Our conclusion in this case does not militate against the idea that Congress has the power to make the commission of a crime or even a misdemeanor a cause for deportation. But such a violation of the Prohibition Law by an alien as shown here has not been made a cause for deportation, either expressly or by any sort of stretch or orientation of the National Prohibition Act, or any other act.

"The judgment and order appealed from in this case is reversed, and the cause is remanded for further proceed-

ings not inconsistent with this opinion." (Lisotta *v.* United States, 3 F. (2d) 108) and citations noted there.

* * * *

The following case is in some aspects unusual and extraordinary:

On November 29, 1920, Pauline Fink, thirteen years of age, arrived with her father and four brothers from Poland. She was a deafmute since her second year as a consequence of an attack of typhus. On her arrival at Ellis Island she was examined by two government surgeons who certified that she was feeble-minded, having failed to discover her deafmutism. The matter was taken up with officials at Washington and the Secretary of Labor directed that the alien be granted a further hearing by a medical board concerning her feeble-mindedness.

This board consisted of three surgeons of the United States Public Health Service, and it unanimously found that the alien was suffering from deafmutism, and was feeble-minded, thereby affirming the previous medical examination. Thereupon, on January 15, 1921, the father and four brothers were admitted; the deaf child was admitted to the care of her parents for a period of six months under bond, but she was to leave for Poland on or before July 20, 1921. On that date, the Secretary of Labor extended the time 60 days with the privilege of a re-hearing as to her mental condition.

On September 28, 1921, she was re-examined and found to be suffering from feeble-mindedness and deafmutism. On October 26, 1921, another examination was held by a board of medical examiners convened by the Surgeon General, but no change was found in the alien's mental condition. The term for her deportation was again extended.

On February 15, 1922, the alien was again examined, and the prior medical findings were confirmed. On March 21, 1922, the Assistant Secretary of Labor, deferred further proceedings for a period of one year and directed that at the end of that time, a further examination should be held to determine her mental condition. The alien was then temporarily discharged from custody and admitted under

bond. She was allowed to enter a public school for the deaf maintained by the Department of Education, New York City.

On March 22, 1923, she was examined once more. This was the fifth Board of Appeal, and it sat at Washington. The board made a careful and exhaustive review of all matters pertaining to the case, and found that the alien was not feeble-minded but was suffering from deafmutism.

The Assistant Secretary of Labor then referred the case back to the Board of Review. On April 19, 1923, the board simply reviewed the history of the entire case, and concluded that the last finding of the board of medical examiners cleared the record as to feeble-mindedness. But the question of mutism and her liability to become a public charge should be thoroughly explained before a final order be made and recommended that the alien be re-examined at Ellis Island by a full board of public health surgeons.

On May 9, 1923, the sixth appeal board in this case was convened. This board decided by a vote of three to two that the alien is feeble-minded. The board was of the unanimous opinion that she is a deafmute.

On May 28, 1923, two years and six months after her arrival at Ellis Island, the Second Assistant Secretary of Labor ordered her deportation. On June 21, 1923, a writ of habeas corpus was served on the Commissioner of Immigration on her behalf, returnable June 26, 1923. The District Judge of the S. D. of New York dismissed the writ and remanded the relator.

An appeal was then taken to the Circuit Court of Appeals, Second Circuit, from the order dismissing the writ of habeas corpus. The Court of Appeals decided that the decision made by the first board of special inquiry which adjudged the relator feeble-minded and ordered her deportation, was final and unappealable in accordance with the act of 1917, and the Secretary of Labor was powerless to interfere with it by setting it aside or reopening it. "Where the hearing has not been fair, then the Secretary has power to direct a case to be re-opened and re-examined. This case belongs to the non-appealable class, and unless the hearing was unfair either before the board of medical

examiners, or before the board of special inquiry, a mandatory duty rested upon the immigration officials to carry the first board's decision into effect. In cases of this nature the jurisdiction of the Courts is exceedingly limited. The Courts can only determine whether the alien received a fair hearing before the executive officers as to her right to enter the United States. Unless it appears that a proper hearing has been denied, the merits of the relator's case are not open for the consideration of the Court."

The order of the District Court was affirmed. (1 F. (2d) 246.) The judgment of the Circuit of Appeals was reversed by the Supreme Court of the United States and the alien ordered discharged from custody, upon confession of error by the Solicitor General for the government. (United States ex rel. Fink *v.* Tod, Commissioner of Immigration, 267 U. S. 571.)

Contract Labor Law

This law seeks to restrain and prohibit the immigration or importation of laborers who have been induced, solicited, and encouraged by persons and corporations whose only object is to obtain labor at the lowest possible rate, regardless of the social and material well-being of our own citizens. This class of immigrants care nothing about our institutions, and in many instances never heard of them. They are persons whose passage is paid by the importers. They came here under contract labor for a certain number of years. Upon their arrival here, they were concentrated in certain industrial communities and remained so isolated and prevented from coming in contact with Americans. These people were settled in certain mining camps, steel mill districts, and various other industrial centers in the United States.

The condition was one bordering on serfdom. These immigrants were forced to live upon the coarsest food and in hovels or unsanitary tenements of a character before unknown to the American workmen. The inevitable tendency was to reduce American labor to the level of pauper labor. Therefore it became necessary for Congress to

enact proper legislation to restrain and prohibit the immigration or importation of this class of immigrants.

An alien who seeks to enter this country to teach language, history, geography, and arithmetic does not perform labor within the meaning of the act of February 5, 1917, and he may properly be regarded as belonging to a recognized learned profession. (Tatsukichi Kuwabara *v.* United States, 260 F. 104, 171 C. C. A. 140.) In Wakefield *v.* Fargo (90 N. Y. 213), it was held that one who was employed at a yearly salary as a bookkeeper and general manager was not a laborer within the meaning of the act. Neither a bookkeeper in a bank nor a clerk in a steamship office is within the class of contract laborers. (U. S. *v.* Union Bank of Canada, 262 F. 91.) A draftsman whose duty is to design machinery and to direct the work of draftsmen under him is a person "belonging to a recognized learned profession" within the exception in the act of 1917. (Ex parte Aird, 276 F. 954.) However, under the act of 1903, it was held that aliens imported under contract, who were expert accountants, were not members of a recognized learned profession, and were, therefore excluded. (Ellis *v.* Williams, 200 U. S. 623; Charalambis *v.* Williams, 196 U. S. 643.)

Seamen employed in foreign commerce and performing labor on American ships cannot be considered alien contract laborers within the terms of the immigration laws, for they are not performing labor in the United States. (Scharrenberg *v.* Dollar S. S. Co., 245 U. S. 122.)

The Contract Labor Law, however, was not without its difficulties, for soon cases reached the courts for decisions as to who is and who is not to be considered a laborer within the meaning of the law.

In 1885, the following question was presented to the Supreme Court of the United States: "Is a contract made with an alien in a foreign country to come to this country as a chemist on a sugar plantation in Louisiana in pursuance of which contract such alien does come to this country and is employed on a sugar plantation and his expenses paid by defendant, a contract to perform labor or service

as prohibited in the Act of Congress passed February 26, 1885?'' The court decided it was not such a contract.

In an elaborate opinion delivered by Mr. Justice Peckham, the Court said: ''Although the study of chemistry is the study of a science, yet a chemist who occupies himself in the practical use of his knowledge of chemistry as his services may be demanded, may, certainly at this time, be fairly regarded as in the practice of a profession. The question presented to us assumes that the individual is a chemist, and that he has come to this country for the purpose of pursuing his vocation as a chemist on a sugar plantation in Louisiana. It may be assumed, that the branch of chemistry which he will practice will be that which relates to and is connected with the proper manufacture of sugar from the sugar cane (or from beets). He is none the less, a chemist, and none the less occupied in the practice of his profession because he thus limits himself to that particular branch which is to be applied in the course of the scientific manufacture of sugar any more than a lawyer could cease to practice his profession by limiting himself by any particular branch thereof, or a doctor by confining his practice to some specialty which he particularly favored and was eminent in.

''It is not stated what the particular duties of a chemist on a sugar plantation are, but it is quite plain, even to one not engaged in the business, that there would be a necessity for the services of one skilled in the science of chemistry in order to enable a manufacturer to make the most out of his materials and produce a commodity up to the proper standard and of a marketable nature. All sugar cane, (or sugar beet for example, is not alike in quality or in the proportions of the ingredients which enter into its composition, and in the course of manufacture, these differences must be discovered, and determined, and the material must be treated accordingly so that the finished product shall be a commodity which is up to the standard set with reference to the particular grade of sugar which it is claimed to be. In order to determine this difference and to reach this standard, analysis of the different samples of the cane (or beet) at some period of the process of manufacture ought to

and must be made, and these analyses are in the province of a chemist to make. Upon their results depend the future treatment of the article. The samples analyzed will of course differ, to some extent, in their qualities from each other, and each will require different treatment, depending upon the result of the analysis and the directions of the chemist founded thereon.

"There can be, therefore, no formal rule or method adopted for all cases. It becomes necessary to examine each sample and decide after such examination what treatment is necessary for that particular lot thus examined. Learning in the science, skill in practice, experience in results, are all factors going to make up the competent chemist in this particular branch. The fact that the individual in question by his contract, had agreed to sell his time, labor and skill to one employer, and in one prescribed branch of the science, does not in the least militate against his being a professional chemist, nor does it operate as a bar to the claim that while so employed, he is nevertheless, practicing a recognized profession." (United States *v.* Laws, 163 U. S. 258.)

* * * *

A contract was made by a religious society located in the state of New York with an alien residing in England by which he was to come to the United States and enter into its service as rector and pastor; and in pursuance of such contract the alien did come to the United States and entered upon such service. The government claimed that such a contract was within the contract labor law and therefore illegal. This contention was upheld by the Circuit Court. (36 F. 303.) On appeal to the Supreme Court of the United States the decision was reversed, the court holding: that the Contract Labor Law was intended to keep out the ignorant and servile class of foreign laborers who, by their extremely low rate of wages tended to reduce other laborers engaged in like occupations to the level of pauper labor. And that the law did not embrace those coming here as a rector, pastor, or in any other religious capacity. (Holy Trinity Church *v.* United States, 143 U. S. 457.)

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Under the immigration acts of 1907 and 1910, section 4 provides, "That it shall be a misdemeanor for any person, company, partnership, or corporation in any manner whatever, to prepay the transportation or in any way to assist or encourage the importation or migration of any contract laborers into the United States, unless contract laborers are exempt under the terms of the last two provisos contained in section two of this Act."

These last two provisos are: "That skilled labor may be imported if labor of like kind unemployed cannot be found in this country: and provided further, that the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denominations, professors for colleges or seminaries, persons belonging to any recognized learned profession or persons employed strictly as personal or domestic servants."

On or about February 29, 1916, a citizen of Great Britain, residing in Nova Scotia, wrote a letter to a factory in Connecticut inquiring about employment for herself, husband, and son. On March 9, 1916, the company replied by letter the substance of which is as follows: that they were in need of hands with some experience in the line made by them and also were looking for unskilled men. Upon the strength of this answer, the husband, wife, and son, came to the United States.

The Circuit Court of Appeals held that the letter of the company in reply to the inquiry for employment was an implied offer for employment and solicitation to migrate to this country to perform labor here. Therefore, they were contract laborers and the company was found guilty of violating the Contract Labor Law and fined. (United States *v.* International Silver Company, 271 F. 925.)

Chinese Exclusion

The period following the enactment of the Chinese Exclusion Laws in 1882 and as amended in 1884, produced the first important judicial decisions bearing on the exclusion

of alien immigrants. Naturally, these cases involved the exclusion of Chinese persons.

A certain Chinaman resided in San Francisco, California, following his occupation as a laborer from some time in 1875 until June, 1887, when he left for China, having in his possession a certificate in terms entitling him to return to the United States, bearing date on that day duly issued to him by the Collector of Customs of the port of San Francisco, pursuant to the provisions of section 4 of the restriction act of May, 1882, as amended in 1884.

In September, 1888, this Chinaman, on his return to California, started from Hong Kong and arrived in San Francisco on October 8th following. On arrival, he presented to the proper custom house officers his certificate and demanded permission to land. Permission was refused solely on the ground that under the Act of Congress approved October 1, 1888, supplementary to the Restriction Acts of 1882 and 1884, the certificate had been annulled and his right to land abrogated, and he had been thereby forbidden again to enter the United States.

The Circuit Court of the United States for the Northern District of California, held as a conclusion of law, that the appellant was not entitled to enter the United States.

Upon appeal to the Supreme Court of the United States, that Court held: That whatever license the appellant may have obtained previous to the Act of October 1, 1888, to return to the United States after his departure, is held at the will of the Government, revokable at any time, at its pleasure. The alien was excluded. (The Chinese Exclusion Case, 130 U. S. 581.)

* * * *

The fourth section of the act of 1892 provided that any such Chinese person or person of Chinese descent convicted and adjudged to be not lawfully in the United States or entitled to remain here shall be imprisoned at hard labor for a period not exceeding one year and thereafter removed from the United States.

In July, 1892, three Chinamen were arrested upon a charge of being unlawfully within the United States, and

not entitled to remain within same. The Court adjudged that they be imprisoned at hard labor in the Detroit, Michigan, House of Correction, for a period of sixty days and at the expiration of this term to be deported to China.

From a decision by the Circuit Court of the United States to discharge a writ of habeas corpus, and to remand the prisoners back to prison, an appeal was taken to the Supreme Court of the United States. That Court held that imprisonment at hard labor for being unlawfully within the United States, inflicts an infamous punishment, and hence conflicts with the Fifth and Sixth Amendments of the Constitution of the United States, which declares that no person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, and that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed. And that even aliens shall not be held to answer for a capital or other infamous crime, unless on a presentment or indictment of a grand jury, nor be deprived of life, liberty, or property without due process of law. The prisoners were discharged from further service of their sentence and proceedings commenced for their deportation to China. (Wong Wing *v.* U. S., 163 U. S. 228. See also Flora *v.* Rustad, 8 F. (2d) 335.)

* * * *

In May, 1905, a very important and far-reaching decision was handed down by the Supreme Court of the United States. The following are the facts in the case considered:

A person of Chinese descent was held for return to China by the steamship company which brought him therefrom, who, having recently arrived at a port of the United States made application to land as a native-born citizen thereof, and who, after examination by the duly authorized immigration officers, was found by them not to have been born in the United States and so was denied admission and ordered deported after an appeal to the Secretary of Commerce and Labor.

The broad question presented here is whether or not the action of such executive officers upon the question of citizenship and other questions of fact had the force and effect as having been made by a tribunal authorized to decide the same and whether or not the decision of the Secretary of Commerce and Labor is conclusive.

In the Japanese immigrant case (189 U. S. 86) the Court said: "Congress may exclude aliens of a particular race from the United States, prescribe the terms and conditions upon which certain classes of aliens may come to this country; establish regulations for sending out of the country, such aliens as come here in violation of law; and commit the enforcement of such provisions, conditions and regulations, exclusively to executive officers, without judicial intervention." It is established by former cases that the act of August 18, 1894, purports to make the decision of the Department of Commerce and Labor final, whatever the ground on which the right to enter the country is claimed, as well when it is Citizenship as when it is Domicile and belonging to a class excepted from the Exclusion Acts. (United States *v.* Sin Tuck, 194 U. S. 161; Lem Moon Sing *v.* United States, 158 U. S. 538; United States *v.* Ju Toy, 198 U. S. 253.)

* * * *

The following case involved the construction of the Alien Immigration Act of February 20, 1907, and the right, thereunder, of the Government to deport the alien Chinese wife of a Chinese citizen, when that wife was found in a house of prostitution within three years after entering this country.

The husband was a resident of San Francisco, California, born in the United States, of parents regularly domiciled therein; consequently, he is a citizen of the United States. The marriage was performed on the 10th of March, 1910, in Hong Kong, a British province in China. The Chinaman and his wife entered the United States on September 15th, 1910, and continued to live together as husband and wife. As a result of this marriage, a son was born to them on February 9, 1911, at their home in the

state of California. The wife was found as an inmate of a house of prostitution within three years subsequent to her entry into the United States.

A hearing was had before an immigration inspector at San Francisco and an appeal taken to the Secretary of Commerce and Labor under the provisions of the act of February 20, 1907, and he ordered that she be deported. The case was carried to the Supreme Court of the United States, and that court held that the wife of a Chinese person, not born in this country, could not become a naturalized citizen under the laws of the United States, being of a class of persons for whose naturalization the act of Congress did not provide. So being incapable of naturalization herself, although the wife of a Chinaman of American birth, she remained an alien, and having been found violating the law within three years she should be deported. (Low Wah Suey *v.* Backus, 225 U. S. 460.)

* * * *

When a Chinese woman born in the United States went to China, and there married a Chinaman in 1920, she became, for the purpose of re-entry into the United States, a Chinese subject as if born in China, the country of which she became a citizen. Being of an excluded race and a citizen of such excluded racial country, she cannot be admitted to the United States. (Ex parte (NG) Fung Sing, 6 F. (2d) 670.)

The burden rests upon the alien to show that he is entitled to enter by virtue of United States citizenship or otherwise. And when the Department of Labor decides, upon the weight of evidence after a fair hearing, that the alien should be excluded, or deported, the courts are powerless to interfere. (Christy *v.* Leong Don, 5 F. (2d) 135.) And on questions of citizenship, the decision of the Department of Labor is final. (United States ex rel. Scimeca *v.* Husband, 6 F. (2d) 957; Goon Hen Soo *v.* Johnson, 13 F. (2d) 82.)

The claimant must sustain the burden of proof as to his claim of American citizenship and his testimony must be scrutinized with great care. If a Chinese person claims

to have been born in the United States and left for China at the age of two and did not return to the United States for almost 40 years, such testimony, as to his birth in the United States, largely relied upon information given by his relatives, cannot be accepted as conclusive; and the courts under such circumstances will not disturb the findings of the Immigration authorities that such claimant must be excluded. (Wong Fook Jung *v.* Weedin, 15 F. (2d) 847.)

A distinction of vital importance is whether one is a resident about to be deported or is seeking entry. (U. S. *v.* Woo Jan, 245 U. S. 552). In the former case he is entitled to a judicial hearing and in the latter he is subject to executive action. (White *v.* Ching Fong, 253 U. S. 90); and the decision of such executive officer is due process of law, which will be upheld by the courts. (Nishimura Ekiu *v.* United States, 142 U. S. 651.)

Where the citizenship of the person to be deported is in issue he is entitled to a judicial hearing. (Singleton *v.* Tod, 290 F. 78.) When such citizenship is not brought into question, then all that concerns the court is whether the proceedings before the Immigration authorities were fair. (United States *v.* Brough, 15 F. (2d) 377.)

As to an applicant for admission, the law is complied with if he is given a fair opportunity to produce the evidence he desires (Lee Loy *v.* Nagle, 15 F. (2d) 50); but the mere claim of U. S. citizenship made by an applicant for admission does not entitle him to a judicial hearing. (United States *v.* Ju Toy, 198 U. S. 253.) The probative force of testimony before Immigration authorities, including the credibility of witnesses, is not the subject of judicial review. (Goon Hen Soo *v.* Johnson, 13 F. (2d) 83.)

Where the testimony given by the applicant and his witnesses before the Board of Special Inquiry is consistent to an unusual degree, and the record is entirely devoid of any grounds to justify a board of administrative officers in reaching a decision for exclusion, then the courts will assume jurisdiction on the grounds that the applicant was denied a fair hearing. (Ex parte Chung Thet Poy, 13 F.

(2d) 262; Johnson *v.* NG Ling Fong, 17 F. (2d) 11.) There must be something besides mere suspicion as ground for an attack on citizenship. (In re Low Yin, 13 F. (2d) 264.)

Where the findings of the Department of Labor are amply supported by evidence that the relators are aliens seeking entry, they are not entitled to a judicial trial to determine their citizenship. (United States *v.* Brough, 16 F. (2d) 492.)

* * * *

The Chinese Exclusion Law, section 2, act of Nov. 3, 1893, defines the words "laborer" and "merchant" and divides the Chinese into these two classes, except those who come to teach, study, travel, etc.

"The words 'laborer' or 'laborers' . . . shall be construed to mean both skilled and unskilled manual laborers, including Chinese employed in mining, fishing, huckstering, peddling, laundrymen, or those engaged in taking, drying, or otherwise preserving shell or other fish for home consumption or exportation. . . . A merchant is a person engaged in buying and selling merchandise . . . and . . . does not engage in the performance of any manual labor, except such as is necessary in the conduct of his business as such merchant."

If the alien claims to be a merchant, he must show legal capacity to carry on a business. Infancy would incapacitate him as a merchant and he would be excluded on that ground. (Ex parte Chan Hai, 11 F. (2d) 667.) One who devotes a considerable portion of his time to selling lottery tickets back of his counter at his place of business is deprived of the status of a "merchant" within the meaning of the Chinese Exclusion Act, and may be deported as a gambler or laborer. (Chin Hong *v.* Nagle, 7 F. (2d) 609.)

Under the Chinese Exclusion Law, the wives and minor children of a Chinese person domiciled in the United States, who is a "merchant" within the meaning of the act, are admissible. (Cheung Sum Shee *v.* Nagle, 268 U. S. 336; Ex parte Wong Jun, 3 F. (2d) 502.) But a Chinese merchant cannot invoke his occupation or American citizenship to bring to the United States a very young child which he

claims he adopted in China, by merely taking her in his care a few days before sailing for the United States. (Siw Oi *v.* Nagle, 12 F. (2d) 769.)

Under the Chinese Exclusion Law, a Chinese applicant who is not a bona fide merchant, can enter this country only on proof of United States citizenship. If a Chinese immigrant does not claim such citizenship, his case is not entitled to be heard by a board of Special Inquiry. (Jung Sir Kwai *v.* Nagle, 5 F. (2d) 228). If he claims United States citizenship by birth but fails to sustain the burden of proof which is upon him, he is not entitled to enter or remain. (Chin Lund *v.* United States, 9 F. (2d) 283.) Where he fails to establish satisfactory proof of being a bona fide merchant, he is refused permission to enter the United States. (Ewing Yuen *v.* Johnson, 299 F. 604.)

A Chinese resident having but a small interest in a mercantile establishment where he acts as book-keeper, is not a manual laborer and his wife is permitted to enter the United States as the wife of a merchant. (Low Cho Oy *v.* Nagle, 16 F. (2d) 1002.)

Where a Chinese has been regularly admitted as a merchant and he subsequently becomes a laborer, that fact by itself does not destroy his right to remain. (Lo Hop *v.* United States, 257 F. 489; Wong Sun Fay *v.* United States, 13 F. (2d) 67.) However, if he enters temporarily as a seaman and then becomes a merchant, he is to be deported for the reason that his status at the time of entry governs. (In re Low Yin, 13 F. (2d) 265.)

Where a Chinese is permitted to enter temporarily as a visitor or traveler, he cannot subsequently change his status to a merchant. (Ex parte Wong Gar Wah, 18 F. (2d) 250.)

A Chinese merchant may be admitted upon a certificate from the government where he last resided. (Loi Hoa *v.* Nagle, 13 F. (2d) 80.)

A Chinese seaman belongs to the non admissible or excluded classes and is permitted to land only in the pursuit of his calling. (Mon Dot *v.* United States, 16 F. (2d) 711.)

PART 4

REGISTRATION OF ALIENS

There are about 7,000,000 aliens residing in the United States. A very large number of these have never declared their intention to become citizens of the United States, although some have resided in this country continuously for many years.

Few people are aware that in the year 1798 Congress passed a law providing for the registration of all aliens who, after the passage of the act, continued to reside, or arrived, or who came to reside in any port or place within the territory of the United States, and a penalty was imposed on all such aliens refusing or neglecting to report to the Clerk of the District Court.

The Department of Labor contemplates the registration of all aliens residing in the United States and territories and avers that this is merely for governmental records and therefore should be no cause to alarm such aliens. Only aliens who have entered the United States unlawfully will, sooner or later, be deported; and all aliens whose entry was lawful but whose subsequent conduct was such as to forfeit their right under the law to remain will be taken into custody and deported.

The American Federation of Labor, the foreign language newspapers, and other powerful agencies are bitterly opposed to the registration of aliens. The chief basis of opposition is that registration of aliens might lead to a system of espionage like that prevailing in Russia under the Czarist régime, or in Prussia before the World War.

In answer to this charge the Secretary of Labor, Hon. James J. Davis, in his book, "Selective Immigration," recently published, states as follows: "True, an enrollment system would make it easier to detect and deport

such bootlegged aliens or nondescripts who elude our immigration officials and break our laws; it would enable us to spot alien seamen who, taking advantage of the seamen's privilege of shore leave, desert their boats and remain in this country in defiance of the law; but this is a mere by-product of a plan to make the path of citizenship, and intelligent citizenship, easier for the emigrant from abroad."

A summary of the principles of the proposed registration or enrollment of aliens as outlined in the afore-mentioned book, shows that it is essentially a means of preparing the alien for better citizenship through education and membership in community welfare activities. The following is from the annual report of the Secretary of Labor for the year 1925:

Enrollment of Aliens

That the United States has settled upon restricted immigration as a permanent policy is evident from the terms of the immigration act of 1924, which provides for the future determination of quotas. Whatever other considerations may have entered into the fixing of this policy, one strong argument urged in its favor was the growing number of aliens resident in the United States who apparently were making little or no effort to become citizens. With immigration restricted, and drawing upon the ranks of the six and a half million residents who were here in 1920, those who became citizens during the past year did not appreciably decrease the number of aliens.

Effort should be made to assimilate as rapidly as possible this army of unnaturalized foreign born. By assimilate, I mean not only to take through the process of naturalization but to vest with an intelligent citizenship, each citizen understanding fully the obligations as well as the rights of that status and having a whole-hearted reverence for our institutions.

Only law-abiding residents may become citizens; only legally admitted aliens may make petitions. Persons whose very entry into the country is in violation or in evasion of law can never make either desirable residents or citizens,

and they ought not to be permitted to remain. The problem of the Government toward the alien, therefore, is threefold—to admit only desirable aliens as permanent residents, to insure that applicants for citizenship have the proper training, and to rid the country of those who are determined to be in the country to the detriment of our best national interests.

I have already referred, under appropriate heading, to the smuggling of aliens into the United States and in that connection have made specific recommendations that certain provisions of the seaman law be amended, and that a more extensive border patrol be authorized. These measures, however, look only toward the exclusion of such aliens at the time of attempted entry and will not aid the United States in locating those who have successfully crossed the border. There is, nevertheless, a remedy for that situation which could be effectively applied, and at no expense; a remedy which would also aid the Government in bringing to the aliens who have a right to be here facilities for embracing the training which it is desirable they have as citizens. This training also, being under the supervision of the Naturalization Service, would expedite naturalization and insure a quicker assimilation into the body politic. The remedy, which should be made available, is a simple one but sure—the enrollment of all aliens in the United States.

Linked with the proposal for a better selection abroad of immigrants to this country, I favor this plan for the enrollment or registration of the alien following his arrival in the United States, with provisions for an annual census of the unnaturalized and a system of education in Americanism which would give every alien an opportunity to learn the English language and something of American history, traditions, ideals, and institutions. Primarily I recommend this enrollment as a means of helping the alien to help himself to the best that America affords, because only by realizing the best in America can America realize the best in the alien.

The enrollment plan, however, would perform other great and important functions, in that it would reveal the presence of the alien who is here in violation of the law or

who seeks by words or acts to induce the violent overturn of our institutions. They come from all directions and by all means of transportation. They are huddled in the dark holds of smugglers' vessels which ply from the islands of the Caribbean Sea with illicit rum or vile narcotic drugs. They steal across our vast expanse of land border; they come by railroad, by automobile, and by airplane. The smuggled alien means no good to America. What kind of an American can we develop out of the individual whose first acquaintance with America comes through defiance of our law and contempt for our authority? He is a law violator when he arrives and he remains one. He ought to be weeded out and sent back whence he came.

Enrollment would enable us to know those among our alien population who are here to preach the downfall of all law and order and the destruction of all authority. No one knows how many agents of anarchy there are in America to-day. They come by devious ways and they operate by stealth and concealment. That they ought to be found and deported no true American can deny. We are constantly finding traces of their propaganda and concrete results of their teachings.

The operation of the system I propose would not confine its results to the revealing of presence in the United States of those illegally here. Such an end is, of course, desirable. There are unquestionably a large number of aliens in the United States who technically have no right to remain. Probably the majority of them arrived prior to the first numerically restrictive immigration law and they believe they have every right to be here, including the right to declare and petition for citizenship. Numerous cases of this kind have been brought to my attention, through the applications of such people for permits to reenter the country as aliens once lawfully admitted and entitled after a temporary visit outside the country to return, and through their declarations of intention to become American citizens. When attempting to verify their arrival it is found that they came into the country either across one of the land borders or as seamen (prior to 1921 they had the right to permanent residence upon the completion of cer-

tain formalities), and no record was made of their having compiled with the immigration requirements. At this time there is no way of making such a previous entry a lawful permanent one without their departure from the United States and reentry in possession of appropriate immigration visa. In many instances, to secure these would require residence outside the country for several years. The best interests of the Government, however, are not served by requiring this to be done. Where such aliens, upon enrollment or registration, are found to be desirable residents the Secretary of Labor should be given authority to legalize the prior entry and permit them to remain as lawful residents eligible for citizenship. The Secretary of Labor should be required to report to Congress the number of such admissions so legalized. Because of the five-year statute of limitations in the immigration laws these people could not be deported if the Government sought to have that accomplished, but neither may they become citizens, because, while deportation would not lie, they are nevertheless technically not residents of the United States until record is made of their legal entry, and for citizenship purposes the residence requirements can not be met until five years from the date of registered arrival.

For those whose presence is undesirable or who have gained residence through deliberate violation of law—the information gained through enrollment or failure to enroll —facilities could be provided for deportation. It is, however, the moral effect of the deportation of perhaps a comparatively few which would produce the greatest beneficial results. The fact that the enrollment plan is in operation would act as a very wholesome deterrent to anyone outside the United States who contemplated using one of the underground passageways as a means of transportation into the country. Knowing that sooner or later such an agency of the Government would disclose his presence and that he would suffer the humiliation of deportation back to the country from which he originally came, he would be less apt to consider illegal means as his "best bet" to realize his ambition of American residence.

Under a separate section I am making other recommen-

dations which concern the naturalization of aliens, but because of the two ends which the enrollment of aliens is intended to serve I shall discuss here the full proposal for enrollment of aliens, the operation of which I recommend be undertaken through the organization of the Naturalization Service, and the Federal court system which ultimately confers citizenship upon those entitled to it.

We must not neglect the alien, for, as President Coolidge has said, it doesn't make any difference what ship an individual came over on, we are now all in the American boat and must pull together for the good of all. I know the difficulties which confront the immigrant when he arrives here, for my father came to this country with little education and struggled for years to gain a true place in the life of America. He knew but little of American ways and there were few to help him to that knowledge until he brought from Wales my mother and her six children—a family turned loose in a world entirely new and entirely strange. I know what a great help it would have been to my father and to all of us if he had been able to establish at once a real contact with the American Government and to find an opportunity to learn the lessons which every alien must learn if he is to take a proper place in American life and is to contribute something to the advancement of American civilization.

None can doubt the need for educating the alien. The average foreigner who comes to this country is here for 10 years before he wins American citizenship; half of our 14,000,000 aliens are to-day unnaturalized. In one great State in this Union it is found necessary to maintain interpreters and translators in its legislature and courts because so many of its people do not speak or understand the English language. Under the arbitration system used in the courts of New York there are many occasions when arbitration proceedings are conducted entirely in an alien tongue. I maintain that no alien who comes to this country and lives for years without acquiring a knowledge of our language can either win the best that America has to offer him or give to America the best that is in him.

This is no proposal for enforced naturalization. Natu-

ralization can not be forced. It is not a matter of empty forms or of legal action. Belief in American ideals and a determination to support American institutions must come from the soul, and must be a consistent growth. We do not want citizenship upon compulsion. But immigrants generally are anxious to know us and what America affords and we ought to offer every alien who comes to us that opportunity, that we may foster in his heart, a respect for American political methods, a love for American traditions, and a devotion to the ideals for which America stands.

Enrollment machinery. I do not recommend elaborate and costly machinery to accomplish enrollment. I do not propose a plan which would further burden the taxpayers of the country. I do not propose the creation of any new bureau in any of the Government establishments. What I recommend is that on a specific day (or days) designated, all aliens be required to enroll at a place and with an officer designated by the naturalization director in the city or district in which the alien resides. The Secretary of Labor, upon the recommendation of the Commissioner of Naturalization, should be authorized to designate local registrars for the purpose, using where available the facilities of clerks of courts, postmasters, and schools. Upon enrollment each alien would be required to pay a small fee, in return for which he would receive a registration card (made out in duplicate, one copy being kept in the naturalization files) and he would be directed to a competent source of training. Directly the Government should not conduct the courses contemplated, but should approve the activities of the many helpful agencies now engaged in Americanization work whose efforts are necessarily confined by lack of centralized supervision.

The record from year to year (being transferred from one city to another whenever that became necessary) would greatly facilitate action upon the petition of the alien for citizenship. It should be accepted as prima facie evidence of the residence requirements now so difficult for many aliens to prove because of inability to obtain the testimony of persons who have known the applicant for the prescribed periods of time.

In asking the alien to enroll I propose nothing radical or revolutionary. Enrollment is based upon a principle which has always been recognized in our American political scheme of things. Every American citizen must register to qualify himself for exercising the right to vote. Practically every State in the Union provides for the compulsory education of children, both native born and alien. We insist that that the alien child must learn to know America and American ways, but we leave that child's parents to struggle for what knowledge of their new land they can pick up among their own neighbors, who in almost all cases are aliens themselves, unfamiliar with the land of their adoption.

Summing it up, here are a few results which I believe the enrollment of aliens will accomplish:

1. Unless some plan of enrollment is provided it will be necessary, in order to enforce the immigration laws, to have a force of officers to inquire into the legality of residence of aliens in practically all parts of the country. This system would be highly undesirable to all and would undoubtedly be the source of much embarrassment. The enrollment of all aliens would solve the problem.

2. Frequently timid and hesitant, the enrollment requirement will be likely to bring the alien "out of his shell," so to speak, and to give him self-assurance. It will provide the contact now lacking between the foreign-born resident and the Government.

3. The ultimate object—the assimilation of the foreign born through Americanization and naturalization—is more readily accomplished, because it does away with the necessity for producing witnesses who have personally known the applicant for citizenship for a period of five years. Experience has proved that this requirement, at present necessary, the alien can not meet because of circumstances not otherwise detrimental to himself.

4. The Government enrollment officers and the Government approved welfare committees which this measure contemplates will frequently save aliens many expenses incident to the employment of lawyers and others to assist

them in the preparation of their papers and the presentation of perplexing questions with which they may be confronted.

5. It will mean protection to the alien from the wiles and schemes of the nationals of his own country and those born here through the establishment of places, the creation of committees, and so on, from which he can secure reliable, accurate information.

6. By being brought into contact with representatives of the Government whose duty it is to make no distinction on account of race or religion it helps to break down the barriers of prejudice and misunderstanding which sometimes exists between the foreign and native born and among the several groups of foreign born themselves. It will create a better spirit of tolerance among all.

7. It will help raise the educational standards of the foreign born and this will mean a higher standard of citizenship, which in turn must necessarily be reflected in more intelligent elections and a better qualified and more satisfied foreign-born citizenry.

8. Education in the language, methods, ideals, and traditions of America means increased efficiency, with the attendant advantages to the alien, the local community, State and Nation, and the world.

9. The result of this training will tend earlier to familiarize the foreign born with American customs and ideals.

10. It will arouse in the alien a desire for American citizenship and whether this desire be from patriotic or selfish motives, if he be worthy, his acquisition into American citizenship is advantageous.

11. It will reduce crime, in that those who are inherently honest will not, when difficulties and embarrassments, trials and temptations arise, listen to the wiles of the tempter, because they have come to a knowledge that in America the individual has his own chance; it will reduce crime, because a clear understanding of the possibilities of America brings a realization, even if the individual be not inherently inclined to honesty, that it pays to be honest.

12. Will teach respect for the law, for with an under-

standing of the purposes of law comes an appreciation in the individual of its advantages.

13. Will reduce disease by an understanding of things taught and seen, read and heard.

14. Will promote sanitary methods through instruction and by observation.

15. Therefore enrollment is obviously to the advantage of the alien from an intellectual, economic, and financial standpoint. It raises him in his own estimation, and under proper supervision this is greatly to be desired, because it fosters a desire for home ownership and leads to confident participation in community life, among the greatest Americanizing influences possible.

16. It will react to advantage to the next generation through intelligent direction of the qualifications of offspring in every line of endeavor.

17. Enrollment will diminish the effect of propaganda by irresponsible agents of anarchism, communism, and the like, because the foreign born will better understand American principles, and understanding them will realize the folly of the red radical doctrines. At the same time it will reveal the existence of these sinister influences.

18. It will lessen the number of violations of our immigration laws by the surreptitious entry of aliens, because the knowledge that all aliens must enroll will check the rush of such violators.

19. It will adequately check the legality of the residence of orientals toward whom we have adopted a policy of exclusion.

20. It may make unnecessary some irksome laws, enacted principally for the protection of the Nation.

21. It will enable us better to protect our own country, gained through the blood of our forefathers.

22. It will likely tend to the arrival on these shores of a better class of aliens, in that those here will convey to those of the relatives and friends abroad a higher conception of America and the duties and possibilities of participation in American life.

The following is from the annual report of the Secretary of Labor for the year 1926:

Enrollment of Aliens

The discussion under a previous heading of the inability of a large number of our alien population to prove their lawful admission to the United States indicates the necessity for the inauguration of some means to clear up this undesirable situation. Because of the accessibility in all parts of the United States of naturalization officers, and the relationship which should exist between naturalization and the permanent residence of aliens in the United States, I have repeatedly recommended the enrollment of aliens with such officers. In my report for the year 1925 I outlined at length the machinery necessary to accomplish this enrollment, the purpose of which would be primarily to facilitate the absorption of aliens permanently residing here into the citizenry of the country. I would make this enrollment a form of nunc pro tunc proceeding to give legal domicile to all such aliens who upon investigation by the naturalization and immigration officers are then found to meet the requirements for admission to the United States under the general immigration laws. In other words, all aliens who are thus enrolled, affirming the date, place, and manner of arrival, would be entitled to the use of the facts contained in that record as the basis for a certificate of arrival for use in naturalization proceedings or the issuance of a form to reenter should such be required.

Not police regulation. For a general discussion of the advantages which enrollment would serve I refer to my annual report for 1925. I want here to emphasize, however, that I propose no police registration or regulation. Objection has been raised to enrollment projects on the assumption that it is an espionage proposal. My object is far removed from that, and in order that the merits of enrollment as I suggest it may be fairly tried I am willing that my recommendation be put into effect on a voluntary basis. No alien worthy of citizenship or of residence among us has anything to fear from this enrollment. I am convinced that even a voluntary enrollment of aliens with naturalization officers would serve to benefit those who take advantage of

it, and it would enable us to know those aliens among us who have intentions of becoming citizens. These officers desire to assist aliens who may wish to become citizens, and keep in touch with them throughout the period of their alienage. I have recommended, and repeat it, that enrollment take the place of the declaration of intention, or so-called first papers, and the nominal fees collected upon enrollment would, therefore, be a part of the ultimate cost of the naturalization process, at no greater total cost to the alien who proceeds to naturalization in the five-year period. The record of enrollment made voluntarily by the alien would relieve him of a great deal of the expense usually incurred by him in proving residence by the furnishing of witnesses.

PART 5

OUTLINES OF WORLD MIGRATIONS

Ancient and Medieval Migrations

The earliest traces of the human race show migratory tendencies. In prehistoric times hunger and loot were the only impulses to migration. On emerging from the dark stage of savagery, and entering the semi-savage state, migrations were induced by pressure of more powerful bands or by the attractions of plunder in adjoining or foreign lands.

Since the dawn of civilization, the movements of peoples were induced by pressure at home or by a desire for freedom from political, religious, or social bondage, like the exodus of the ancient Hebrews from Egypt and the Pilgrims who came to America on the *Mayflower,* and recently, those who fled from Russia, Poland, and the Near East.

The Egyptians considered themselves the oldest people in the world. Late discoveries, however, show that civilization existed on Egyptian soil many centuries before 4000 B. C., the first dynasty of Egyptian rule. Recent excavations have exposed objects lying intact after a burial of more than 5000 years. Egypt was a highly civilized empire though, while the ancestors of the Persians, Jews, Greeks, and Romans were still in a savage state.

Some authorities claim that the earliest civilization in the world arose among the Sumerians, north of the Gulf of Persia. History records the first accounts of the movements of tribes somewhere in southern Asia, and it is not unreasonable to suppose that the early groups of these people were not unlike one another. They were of the pastoral kind and, naturally, a state of unrest existed among them.

Gradually the movements of groups and tribes were from the south to the north of Asia, and from the west to the east of Egypt, as a result of pressure, the stronger tribes driving the weaker ones before them; so a gradual process of branching out in various directions was started.

On the great plains of southern Asia, many races from many lands have met and mingled, and here the Chaldean peoples had their origin. For many centuries, perhaps as far back as ancient Egypt, Chaldea has been the abode of civilized people.

In ancient times the control of migration was due mainly to geographical and climatic conditions. An open country was more liable to invasion and occupation, while mountains, forests, deserts, swamps, and large bodies of water formed natural obstacles which were practically unsurmountable. A series of tribal movements would be started by some obscure people in their quest for food and shelter or by a desire to conquer and enslave the conquered. These migrations took the form of armed invasions.

Such was the beginning of the Chinese nation when a band of Turanian wanderers came into the basin of the Yellow River from the west, probably prior to 3000 B.C., and conquered the aborigines whom they found in the land and so laid the foundation of the Chinese civilization, older perhaps than that of any other land save Egypt.

We are not certain when man first appeared upon this earth. We only know that in ages vastly remote there were nations and civilizations already venerable with age long before written history. Beginning in the early dawn of Egyptian civilization, settlements were founded near the head of the Nile Delta at which place Menes, the first kingly personage, founded the city of Memphis. This king is credited with the first consolidation of the numerous petty principalities of Lower Egypt into a single state. The kings, or Pharaohs, reigned in Egypt till the conquest of the country by Alexander the Great in 332 B. C.

The original inhabitants of the Euphrates Valley are supposed to have been of the Turanian race. These people laid the basis of Asian civilization and culture. Then came

the Semitic people to mingle and blend with the Turanians. These mixed people became known as the Chaldeans or Babylonians.

The Babylonians started their movement up the Euphrates Valley from Arabia about 3000 B. C. In time Babylon was wasted by constant invasion and finally conquered by the Assyrians about 1250 B.C. The earlier invasions may have coincided with the first expansion into Mesopotamia.

The first Semitic Empire was founded about 2500 B. C. Then a wave of Semitic migration spread from Arabia northwards and westwards, and was supposed to have had some bearing upon the migration of the Phœnicians from the Persian Gulf to the Syrian Coast about 2000 B. C.

The history of the world shows no parallel to the migratory movements of the Jewish race. From an obscure tribe they were transformed into a nation and remained intact by the religion of Jehovah to this day. This nation was destined to play some part in almost all important events leading up to the present state of world affairs, as well as suffer the greatest hardships and persecution in their wanderings over the whole world. Although a small nation, it is one of the most significant in the world's history.

About 2000 B. C., Semites of the white race, of the same stock as the Arabs, descended from the mountains of Armenia into the plains of the Euphrates. One of their tribes withdrew to the west, crossed the Euphrates, the desert, and Syria and came to the country of the Jordan. This tribe was called the Hebrews.

They were of a nomadic race and moved from place to place with their herds. The tribe was like a great family, composed of the patriarch or chief, his wives, his children, and his servants. The principal patriarchs were Abraham and Jacob, the former the father of the Hebrews and the latter of the Israelites. According to the Old Testament, Jacob, the grandson of Abraham, abandoned the country of the Jordan and migrated with all the tribes to the eastern part of Egypt where Joseph, one of his sons, had become minister of Pharaoh the King of Egypt.

There the Israelites remained for several centuries, in-

creasing from the time of their immigration until their exodus from 70 to 600,000, not counting women and children.

The rule of the Egyptians becoming oppressive, the Israelites, under the guidance of Moses, fled from Egypt and migrated to the foot of Mount Sinai where they received the Ten Commandments. They then continued to wander over the deserts south of Syria for forty years, finally arriving in the promised land of Canaan or Palestine, later named Judea, from where the name Jew is derived.

When they arrived in Palestine or Judea, the tribe had increased to 601,700 men capable of bearing arms. These were divided among twelve tribes; ten descended from Jacob and two from Joseph. The Israelites then made Saul their first King; he was followed by David. Under David the Israelites defeated all their enemies and the capital was established at Jerusalem.

About 1000 B. C. the Jews and Jewish Arab immigrants conquered and then dominated Abyssinia.

Solomon was the last king of the Jews. After his reign the tribes separated, only two tribes remaining; these formed the kingdom of Judah in 970 B. C. The other ten tribes formed the kingdom of Israel. Israel was destroyed by the Assyrians in 722 B. C. and the survivors held in captivity for seventy years. Nebuchadnezzar, King of Chaldea, destroyed Judah in 586 B. C. and drove the Judahæns to the plains of the Euphrates. When the Israelites were released from captivity they returned and rebuilt Jerusalem, setting up a Jewish Kingdom that lasted for seven hundred years. During that time they spread out into Egypt, Syria, Asia Minor, and even Italy and to the large cities of Greece and Rome. In 70 A. D., Jerusalem was destroyed by the Romans, and from that time on the Jews were scattered throughout the world.

The Egyptian kings effectively checked all movements of invasion about 1500 B. C. When Egypt became weak at the close of the eighteenth dynasty, or about 1400 B. C., invading movements were resumed. At that time, there was great unrest in eastern Europe and western Asia, arising

from the shifting of populations and affecting both Greece and Asia Minor. Also about the same time there were movements of people from the Ægean Sea to Cyprus and the Syrian Coast which introduced the Philistines and other peoples of Palestine.

About the thirteenth century B. C. the Kings of Assyria, leading great armies, invaded the plains of Chaldea and conquered the inhabitants. They founded a mighty empire whose capital was Nineveh.

While these changes were transpiring, the inhabitants of North Africa also became a restless lot, and large numbers of Egyptians invaded surrounding territories.

Oriental immigrants who brought with them the arts and culture of the different countries of the east, founded the settlements that later formed the Greek nation. The tide of emigration from Egypt flowed through the delta of the Nile into Greece about 630 B. C. and the north shores of the Ægean and Black seas became fringed with colonies. The real history of Greece began about the beginning of the eighth century B. C.

The Hamitic, the Semitic, and the Aryan, or Indo-European types, embrace the historic nations of the white race. The ancient Egyptians were the chief people of the Hamitic branch. The ancient Babylonians and Assyrians, the Hebrews, the Phœnicians and the Arabians, belong to the Semitic branch. The most widely scattered branch of the white race is the Aryan or Indo-European. Included in this branch are the ancient Indus, Medes and Persians, the Greeks and Romans, and the modern descendants of these nations. Almost all the people of modern Europe and those who have peopled America belong to the Aryan branch of the white race.

About 3000 B. C., some tribes of the Aryan family started from their original seat in southern Asia and spread themselves over the tablelands of Iran and the plains of India. They became the progenitors of the Medes, the Persians, and the Hindus. Following these tribes came successive waves of Aryan immigration to central Europe with the Celts in the vanguard, followed closely by the Teutonic tribes, who crowded the former into Gaul

and Spain and out upon the British Isles. These hard-pressed Celts are represented today by the Welsh, the Irish, and the Scotch.

In western Europe were found the northern or Nordic races. In western Asia the Alpine race was spreading into Germany and across to Denmark and southern Norway, coming in contact with the Nordic race about 1800 B. C. The first movement of the now mixed race of Alpine and Nordic stock was about 1400 B. C. They swarmed upon the inhabitants of Greece and conquered them.

Political trouble at home was no doubt behind the foundation of the early Greek colonies in Asia Minor, but food difficulties on account of limited area in their own country was the motive that brought them there about 700 B. C., just as in our own times Japan, herself a mountainous barren country like Greece, has been looking for expansion in order to sustain her peoples.

In 559 B. C., Greece was again invaded by vast armies coming from the mountains of Persia led by King Cyrus. The defenseless Greeks were soon conquered and absorbed by the Persians.

The expansion and migrations of the Mohammedans started in 622 B. C., the birth of Islam.

Keltic-speaking people migrated across the Rhine into France about 600 B. C., after having invaded the British Isles one hundred years earlier, resulting in the rise of the Kelto-Teutonic people, who occupied the northern part of Gaul about 300 B. C.

In 334 B. C., Alexander the Great began his wonderful series of campaigns of conquest. His vast armies passed over into Asia. They marched from Macedonia to Egypt, to the Caspian Sea, and the Punjab, and swept everything before them. In the wake of the conquests of Alexander the Great, eastern Europe received its immigrants from the ancient lands of Hellenized Asia.

About 218 B. C., Hannibal, leading the Carthaginian hosts, marched by land from Spain through the Pyrenean passes across France and then succeeded in crossing the Alps and down into Italy, defeating the Romans in their

own country. This feat is unparalleled in the history of the world for military genius and determination.

To check the invasion of the various Nomadic tribes such as the Manchu and Mongols, China built the Great Wall in 246 to 210 B. C.

Julius Cæsar started his campaign of conquest in 58 B. C. He marched forth from Rome with a large army headed for Gaul. First he drove back the Swiss. Then he turned against the Germans and overwhelmed them, driving them back with great losses behind the Rhine. He then entered upon the conquest of Gaul and struck down all the Gallic tribes that dared to resist him. Continuing on his victorious march he passed over to Britain and conquered the tribes he found there. The success of Cæsar in the Gallic Wars tended to keep back the German invasions and perhaps saved the western lands for the foundation of the French nation, which retained some of the Roman culture and language.

The immigration into western Europe proceeded in the main from the Roman Empire, the heir to the Hellenic Dominion in the East. The pure Teutonic people then started great movements in and from northern Europe, and bringing pressure on the Kelts drove them across the Rhine until stopped by the armies of Julius Cæsar.

Although the power of the Roman Empire did not disappear until 476 A. D., the undermining of the Empire by foreign invasion took place constantly for 200 years prior to that date; various races which had, previous to 250 A. D., stood beyond the frontiers of the empire then forced their way in gradually. The invaders were mostly of Germanic origin. They did not enter the Roman Empire in one great flood of immigration, but trickled through in thin streams and gradually soaking into the Roman Empire made themselves the masters.

Most of these Teutonic invaders consisted of the Goths and Vandals, who were desirous of possessing themselves of the wealth of the now fallen empire. But there was another cause that brought them to Rome. They were being attacked in the rear by an enemy more numerous, more warlike, and much more barbarous than themselves,

and were driven by defeat to find a refuge within the empire.

They were attacked in their homes in central Europe about the year 374 A. D. by the Huns, an Asiatic race of Tartar origin who appeared in Europe coming from central Asia. These vast hordes of barbarians led by Attila, formed a powerful kingdom in central Europe and conquered all the Teutonic people.

The Goths, overwhelmed, soon came down to the Danube and implored for, then demanded, admission into the Roman Empire. Rome admitted them but soon saw the great harm done by such admission. In 376 A. D., the Goths began to pour into the lands south of the Danube in great volume. Then, after warring upon the Romans, decisively defeated them and acquired possession of that territory.

The Roman Empire was now beginning to disintegrate. The frontier in western Germany was destroyed by the movements of the Vandals in 400 A. D. and a few years later Italy was invaded by the Visigoths who captured Rome in 410 A. D. These barbarians did not remain long after the slaughter of the inhabitants and plunder of their treasures.

The Huns were a nomadic race, not caring to settle long in one place. In 446 A. D., they invaded the eastern part of the Roman Empire, swept along the north of the Balkan Peninsula, and made their way even to the walls of Constantinople. Their march of plunder continued northward through Germany, and in 451 A. D. they attacked Gaul. But here they were repulsed by the Romans and Visigoths who completely routed them at the battle of Chalons. Attila retired beyond the Alps and died in 453 A. D.

About this time Britain was conquered by the Germans, who were much fiercer and more cruel than the Goths. The Celtic inhabitants, more civilized than the German invaders, offered a prolonged resistance but were finally subdued. The invaders consisted of the Jutes, who attacked in Kent, and the Saxons who spread over the south and east of England. The center and north of England was at that time occupied by the Angles or English. The invaders were in turn conquered by the Danes.

About 450 A. D., the Franks, who for some time had been hard pressed by the Saxons, invaded the Roman territories west of the lower Rhine and drove the Romans before them. The movement of the Franks was headed by Clovis who succeeded in conquering almost the whole of Gaul.

In 455 A. D., Rome was plundered by the Vandals. The city could make no resistance and was completely ransacked of its treasures. The phantom of Rome still subsisted in Italy for twenty-one years, then the shadow of an Empire that dominated the then known world for about 500 years vanished, and in the lands west of the Adriatic Sea the Roman Empire passed away in 476 A. D. The conquest of the western Roman Empire by the German tribes in 476 A. D. marked the close of the period of ancient history.

In the meantime, other Teutonic nations had been coming southward and settled along the Danube in what is now Austria. The last migratory movement of the Teutons was in 567 A. D. when the Lombards under King Alboin invaded Italy and settled there permanently.

Some time in the sixth century, a new movement spread from Asia. Vast hordes known as the Avars swept across Russia and drove the Bulgars, Slavs, and others before them till they reached the lower Danube. While this was going on the Slavs migrated to the Balkan Peninsula and made an attack upon Constantinople in 625 but were repulsed with heavy losses.

The Bulgars, an offshoot from the Huns, then crossed the Danube into the Balkan Peninsula and settled in Italy about 680.

The Hunagars migrated from the vicinity of the Ural Mountains to the banks of the Volga River in 550 where they remained for about 200 years. Then they proceeded to the Danube and formed an alliance with the Magyars in order to crush the Slavs, Huns, and Avars, who had settled along the banks of that river. When the conquest was complete there rose a new nation consisting of the Hunagars, Magyars, Slavs, Huns, and Avars. These peoples founded the Kingdom of Hungary. The migration of Asiatics into Europe ceased about the seventh century.

In the eighth century the Northmen invaded England.

These Norsemen were a remarkable race, having wandered to Iceland and America as well as to France and Italy. They passed around the north of Scotland and fell upon Ireland. After 300 years of periodic invasion and assaults by the Danes and Norsemen, England was completely conquered by the Normans in 1066 and William the Conqueror became King of England.

While the Danes and Norsemen were invading England during the eighth century, other movements started from the Scandinavian countries across the Baltic; settlements were founded at Kiev and Novgorod, and about two centuries later the Varangians founded the Russian Empire in the West and North.

Then followed the great movements of the Teutonic peoples and the advance of the Slavonic tribes who spread across to the Baltic and over northeast Germany. In the southwest the Slav expansion was across Bohemia as far as the eastern Alps, and together with the Avars occupied the Balkans. About the ninth century they reached Novgorod and the Upper Volga. In 913, the Hungarians invaded Germany as far as the Rhine.

The Turks, of ancient Semitic origin, captured Jerusalem in 1071. In 1084 they crossed the Euphrates and occupied Asia Minor. About 200 years later they established themselves in the Balkans. In 1453 they captured Constantinople, and a century later conquered Hungary.

Beginning with the year 1095 and covering a period of about 200 years, large numbers of peoples known as the Crusaders were constantly attacking the Mussulman power in Palestine, Asia Minor, Egypt, and elsewhere. Great throngs of men, women, and children, aroused by religious enthusiasm, marched without organization from France, Italy, Sicily, Normandy, and Germans from the Rhinelands and from other parts of Europe, to capture the Holy Land. But the result had been disappointing. Short-lived triumphs, lasting defeats, horrible waste of life and treasure, was the outcome.

Soon after the first Crusade in 1096, a large flood of migration started in near-by Slavonian Bohemia where the Crusaders attacked the Jews at Prague. The Bohemian

Jews fled to neighboring Poland. Beginning with this period there was a steady flow of Jews from the Rhine and Danube provinces into Poland, increasing in volume as a result of the Crusades 1146 to 1196. During the thirteenth century vast numbers of Jews were driven from Germany into Poland by the fury of fanatical mobs. From the German mother country the Polish Jews received a German dialect which subsequently developed into Polish Jewish jargon or Yiddish.

In the first part of the fourteenth century the Jewish emigration from western Europe assumed especially large proportions. Large numbers of German Jews sought shelter in Poland to escape the massacres accompanying the Black Death and subsequently settled there.

After medieval Babylon and Spain no country contained so large a concentration of Jewish population as Poland. The number of Jews in Poland grew from 50,000 in the year 1501 to 500,000 in 1648.

In 1772, the Jews constituted one-eighth of the whole population of Poland, which at that time had about 8,800,000. When Poland was partitioned in that year by Russia, Austria, and Prussia, the number of Russian subjects was swelled by the huge Jewish masses of White Russia who numbered hundreds of thousands. These people were considered an unwelcome heritage bequeathed by Poland.

At the second and third partition of Poland in 1793 and 1795, hundreds of thousands of Jews from Lithuania, Volhynia, and Podolia were added to the numbers of Russian subjects, Prussia and Austria acquiring the rest. Russia, the country which barely a generation before had not tolerated more than a handful of Jews within its borders, now included a territory more densely populated by Jews than any other.

These Jews constituted a huge and compact population of different birth and creed and with an autonomous communal life, with a separate language and with customs and manners of its own. This proved to be a great problem for Russia to solve.

In 1806 the Minister of the Interior decided to set aside

separate parcels of land on the Steppes in the regions of South Russia, under the New Russia Immigration Bureau. By the end of 1806, the number of applicants were several thousands and the first Jewish colony was established in South Russia.

By 1808 the number of applicants reached such large proportions that the Governor of the Province and founder of Odessa, Duke Richelieu, together with the New Russia Immigration Bureau, reported to St. Petersburg the necessity of stemming the tide of emigrants on account of the inability of the first parties of colonists to establish themselves. The government decided to put a temporary stop to the settling of the Jews in the New Russia colonies (Ukase of April 6, 1810) after ten thousand emigrants had already gone there and large numbers were prepared to follow them. About two million Jews were huddled together in western Russia during the period 1815 to 1848.

Origins of Modern European Nations

The earliest accounts of the German people are very obscure. The first authentic account dates about 100 B. C. when the Romans first came in contact with the warlike tribes which were later classed under the name of Germans. It would be impossible to trace the migrations of the different tribes of Germany as they emerged from barbarism. They were then wandering tribes bent on conquest and devastation. The foundation of the German nation was laid by the Franks, Saxons, Bavarians, and the Alemanni or Swabians. The present Germans, the Dutch, the Flemings, and the English are descendants of the western German tribes.

The German Empire came into being in 1871 and the King of Prussia became the German Emperor under an imperial constitution whereby the King of Prussia in the name of the North German Bund and the Kings of Bavaria and Württemberg and the Grand Dukes of Baden and Hesse concluded an everlasting Bund for the protection of the German Empire. Before the World War the German Empire was composed of twenty-five states. These were

bound together by an international agreement into the German Confederation; but each state was sovereign and independent.

The Dutch people trace their origin from about 100 B. C. From that period to the tenth century the Frisians, Batavians, Romans, Saxons, and Franks together laid the foundation of the Dutch nation. The Holland dynasty was founded in 923. The history of the Netherlands largely compounded of the Teutonic elements began in 1500 under the rule of Charles the Fifth. In 1579, the seven protestant states of the north were united into a permanent confederation which was the foundation of the Dutch Republic. In 1814, Holland and Belgium were united to form the Kingdom of the Netherlands. The final separation of Belgium from Holland was consummated in 1839.

The origin of the earliest inhabitants of what is now Belgium is not certain but is believed to have been mainly Celts, or Celts and Germans, who settled there about the third century B. C. and occupied a very extensive territory between the Rhine and Seine Valley. Cæsar invaded this territory in 57 B. C. and his legions continued their work of devastation and conquest for six years. Then the tribes which formerly occupied the territory of Belgium were divided into four districts under Roman domination. In 276 A. D., the German tribes together with the Franks and Saxons invaded the territory and by resorting to barbarous onslaughts destroyed the buildings and massacred or enslaved the inhabitants.

Then came the Carolingian epoch and a King of the Franks was elected at Soissons in 751. Following the decline of Carolingians and the expansion of Flanders consolidation was effected with Burgundy in 1384.

The revolt against Spanish rule occurred about a century later which ended the Hispano-Belgian régime. Belgium was under the yoke of Austrian autocracy from 1713 to 1789 and under French rule from 1792 to 1814. In that year she became reunited to Holland. Then came the revolution of 1830 resulting in the foundation of the Kingdom of Belgium under Leopold I in 1831.

Perhaps no country on the globe has had more warfare

on its soil than the lands now known as France. The territory was conquered by the Romans between 121 and 51 B. C. and they named it Gaul. The inhabitants were mainly Celts. In 250 A. D., invasions of Gaul by German tribes began. In 481, Clovis became King of France and extended his Frankish power. Then came the confusing periods. Provinces were invaded, divided, retaken, again divided; small principalities and kingdoms established that tottered for a short while, then collapsed, and were again divided. In 795, the Frankish dominion extended far into the plains of the Danube and from the English Channel almost to the Straits of Messina. Under the Emperor Charles the Great the German and Roman elements were blended into the Frankish Empire about the year 800. Then followed a period of constant warfare.

West Frankish and purely Romance lands, Neustria, Acquitaine, Flanders, Brittany, North-West Burgundy, Septimania, East Frankish provinces and Teutonic lands east of the Rhine, were changing rulers with such frequency that historians consider this period the most confusing and difficult to describe.

The great land barons, counts, dukes, earls, and princes were engaged in a continuous struggle for the acquisition and retention of territory. About 1125 a rebellion against the English King burst out in Normandy but King Henry of England soon crushed the revolt. Events followed fast and furious.

Then came the twelfth century Renaissance accompanied by a philosophic awakening and scholastic achievements and the marvelous development in architecture. In 1154, the English King ruled over Normandy, Maine, Touraine, Acquitaine, Brittany, and Anjou.

The English were expelled from southwest France during the period 1285 to 1314. This period marked the transformation of France from a feudal to a monarchical kingdom.

In 1337, the Hundred Years' War opened between France and England. France eventually triumphed and the English were driven out. The beginning of modern French history was in 1498.

Very little is known of the inhabitants of the British Isles before the Roman invasion in 55 B. C. In that year Julius Cæsar invaded the southeast corner of Great Britain. There he found organized clans under the head of hereditary chieftains. These clansmen were great fighters and the clans were in a state of constant war with one another. The Romans did not completely conquer Britain until a century after 55 B. C. In 410 A. D., the Roman legions withdrew.

Then came the Teutonic tribes. These included the Jutes, Saxons, Frisians, and the Angles. The Angles came from Holstein in one body, with their families, cattle, and slaves, and were the most numerous of the invading tribes. About this time the Scots migrated from the north of Ireland to the western highlands of England. After the German tribes gained possession of the eastern half of England they united, and Egbert, king of the West Saxons, became the first King of England in 827 A.D. Ireland remained free from Teutonic conquerors as she had been free from the Roman invasion.

Four centuries after the first Teutonic invasions England was invaded by the Northmen coming from Norway and Denmark. These fierce warriors settled in England, Ireland, and Scotland in large numbers. As a result of the Norman conquest in 1066, England now for the first time became a real Kingdom founded on a feudal aristocracy, and William the Conqueror was crowned and anointed King of England. Then followed a most eventful period of English history. The Magna Charta was wrested from King John in 1215. The House of Commons was formed in 1265. Wales was conquered in 1282 and in 1285 the ancient Celtic line of Scottish chiefs became extinct. Scotland regained its independence in 1328 and remained a separate Kingdom until 1603 when the crowns of England and Scotland were united under James Stuart VI of Scotland. During the Tudor period, 1485 to 1603, England was severed from the Spiritual Empire of Rome and the Reformation movement started.

The Elizabethan era, 1558 to 1603, constitutes one of the most momentous periods in history. It was an era of

marvelous expansion and growth. After the discovery of America navigators sailed around the globe and penetrated all its seas. It was a period of great activity and achievement. During this period the English people developed a literature of such richness and originality as to make it the prized inheritance of all mankind.

The Norwegians are not a wholly unmixed people any more than are other European nations of today. There is no doubt that in ancient times a considerable foreign element has immigrated into Norway from various countries which resulted in a mixing of races. Of these ancient migrations we know little or nothing until about 800 A. D. when the Viking expeditions began.

The Swedes, who were closely related to the Goths, migrated from the Scandinavian north and founded the kingdom of Svitiod, or Sweden, with its capital at Upsala about 700 A. D.

The Danes inhabited southern Sweden and the Danish Isles. From about the year 500 the Danes entered upon a period of remarkable development. The early inhabitants of Denmark, Norway, and Sweden were generally named Northmen, Norsemen, and Scandinavians. In the year 1397, the kingdoms of Norway, Sweden, and Denmark were united into one union. In 1523, the Swedes revolted and became an independent nation.

Iceland was settled by the Northmen in the ninth century, and about a century later Greenland was discovered and colonized.

The origin of the Russian people begins with the settlement of a body of Scandinavians under the leadership of Rurik about 850 A. D. at a place about one hundred miles south of what is now Leningrad. These warlike people soon pressed further south and became the overlords of all the eastern Slavs. Kiev was then made the capital. These Varangian conquerers soon mingled with the subdued Slavs and the Slav-Scandinavian-Russian people were formed into the nucleus of the Russian nation. Russian colonization was then extended to the east Baltic coast regions. Then came the Tartar invasion of the twelfth and thirteenth centuries. This Mongol domination lasted from

1157 to 1462. The Muscovite Empire existed from 1462 to 1598. In 1612 the first Romanoff was chosen Tsar; his family coming over to Muscovy from Prussia which was at that time inhabited by Slavs. Then came Peter the Great and he ruled from 1689 to 1725. During the reign of Catherine II from 1762 to 1796 Russia acquired its greatest territorial expansion. The Napoleonic wars soon followed. Nicholas I ruled from 1825 to 1855.

The Polish people trace their origin to the Slavs and Indo-European people coming from Asia who settled along the Danube about the second century and driven from there by pressure of more powerful tribes to find a refuge on the plains of northwestern Europe. Here the tribes united and continued as a nation for a period of about 500 years. Then followed periods of German colonization of the Polish lands. By 1250, there was a steady stream of German immigrants flowing across the border. These settled on Polish territory and became very numerous. The Germanization of Poland continued and made the destruction of Poland seem certain in a short time, but she was saved by uniting with the Lithuanian Empire in 1386. This union brought the two states together under one King.

The Lithuanians were of the same race as the Prussians and for centuries occupied the territories of the swamps and forests of the upper Niemen. They were at the height of their power in 1315 when their principality included the great Dnieper Valley and Kiev, and Black, White, and Little Russia. These Russian possessions with their Russian language had a powerful influence over the Lithuanians, and Russian civilization predominated until the seventeenth century.

About the year 1500 the Turks and Moldavians were ravaging the borders of Poland while the Tartars and Teutonic Knights as well as Muscovites stood ready to attack her on the northwestern frontiers. In 1531, an army of Turks and Moldavians invaded Polish territory but were repulsed. Poland then started on an era of decline until partitioned by Russia, Austria, and Prussia in 1772, and did not regain autonomy as a nation until the end of the World War.

The Italian people sprung from the commingling of Teutonic and Latin blood. In 488, soon after the collapse of the Roman Empire in the west, more than 200,000 Goths invaded Italy coming from the south side of the Danube River in what is now Austria. About 100 years later they were followed by the Lombards. Then came the Franks in 726. In the year 800, Charlemagne attempted to combine Teuton and Roman in political union under a Frankish king; but after his death his empire crumbled away and Italy was ruled by local barons during these dark and bloody years and instead of being an Imperial province, became a series of independent states until united in 1860 to form the Kingdom of Italy. The first Italian parliament was held in 1861.

The Balkan Peninsula has been for many years the storm center of European powers. For many centuries invading hosts have poured from east to west and from west to east, resulting in the commingling of many races. Beginning with the year 1500 B. C., nomadic tribes have wandered over this peninsula. Mongolians, Huns, Tartars, Persians, Greeks, Slavs, Avars, Arabs, and Turks contributed to the simmering Balkan crucible. The ancient Romans and Franks, the Ottoman, Austrian, Russian, and German empires have desired to control the Balkan states as a means of acquiring strategic advantage of great importance.

In the year 711, the Visigoths who occupied what is now Spain and Portugal, were hopelessly defeated and all the peninsula was conquered by a large army of Moslems. Soon after the subjugation of the country, multitudes of emigrants from Arabia, Syria, and North Africa, including Jews, came in large numbers and remained in Spain for nearly 800 years. In 1492, after a struggle that lasted for ten years, the Moors were defeated by the combined forces of the principalities of Castile and Aragon numbering about 70,000, and Granada, the capital of the Moors, was captured by the Christian Knights. The Moors were permitted to remain for about a century before they were expelled in 1598.

The country now known as Switzerland was part of the

Holy Roman Empire from early in the eleventh century. The Dukes of Austria, princes of the Empire, tried to make themselves masters of these liberty-loving people, but were defeated on the battlefields in 1315, 1386, and again in 1388. From then on the Swiss formed a strong League and remained on a firm basis.

The nucleus of the Austro-Hungarian Empire was a small county of the German Empire founded about 800 and centered about the old Roman town of Vienna. In the year 1438, Albert, Duke of Austria, then part of the German Empire, was raised to the Imperial Throne by seven princes who were called the electors. The Austro-Hungarian monarchy, founded in 1526, held together the Alpine counties of Bohemia, Moravia, Hungary, Austria, and several others of lesser importance. About the beginning of the eighteenth century a number of provinces were acquired by annexation including Galicia, Bukowina, Dalmatia, Salzburg, Cracow, and later the provinces of Bosnia and Herzegowina. The Empire contained in all about fourteen provinces that harbored people of eleven different nations including Czechs, Slovaks, Germans, Poles, Italians, Roumanians, Ruthenians, Croatians, and Jews.

The cradle of the House of Austria was the Castle of Hapsburg in Switzerland. The Hapsburg family reigned continuously until 1806 when Napoleon I dissolved the Empire. When the Empire was regained it continued until the end of the World War when Hungary gained its independence and Czecho-Slovakia formed a separate republic and the Serbs, Croats, and Slovaks formed the Kingdom of Jugo-Slavia.

America

Dr. Ales Hrdlicka, curator of the division of physical anthropology in the United States National Museum, Smithsonian Institution, has recently gathered scientific data which confirmed his belief that the people found on the American continent at the time of discovery by Columbus, were descendants of peoples who crossed over from Asia to Alaska during prehistoric times. In this belief, Dr. Hrdlicka is sustained by a number of notable authori-

ties in the field of scientific training and research, who have reached the conclusion that the first peoples to inhabit North America were of Asiatic origin.

The ancient Normans, Welsh, and Scandinavians claim the honor of discovering America before Columbus; but some of the claims are founded on mere tradition. In 985, Eric the Red is said to have led colonies to western lands known as Greenland. In 1000, Leif, the son of Eric the Red, is said to have visited America with thirty-five companions. It is also related that the Norsemen occupied America for centuries before Columbus; but there are no archeological proofs of these alleged centuries of Norse occupation of America.

It is now settled that the development of the New World began when Christopher Columbus, in his efforts to reach India by sea, landed on an island in the Bahamas on October 12th, 1492. India at that time was a storehouse for the world's luxuries. From there Europe obtained her gold and silks, perfumes, precious stones, and a considerable amount of spices.

To reach India, it was necessary to follow the great trade routes by caravans. On the return from India, the caravans traveled overland through Central Asia and the Balkan Peninsula, thereby reaching Italy, the Rhine country, and other lands. When the Turks captured Constantinople in 1453, these paths were closed and the routes were diverted over Egypt. The Turks soon overran Egypt and raided the caravans; therefore the desire and goal of the navigators were to reach India by sea; although some authorities maintain that it was not the Turk, but cheap freight rates that caused the diversion of trade from the caravan transportation to an all water route. Columbus set sail with the confidence that by continuing west, India could be reached.

Six years after the discovery of America, Vasco de Gama of Portugal reached India by a southeast passage, sailing around the Cape of Good Hope in 1498. Then followed a period of Spanish and Portuguese discoveries in North and South America, the Spaniards reaching the

mainland of North America in 1513. In 1519-1521, Mexico was conquered by Cortez.

The Mississippi River was reached by De Soto in 1541, and Melendez established St. Augustine in 1565. Santa Fé, New Mexico, was established as the seat of Spanish power in the north in 1598.

Then came the French in their attempt to colonize North America. In 1524, Francis I sent John Verrazano, a Florentine, on an expedition. In that year Verrazano explored the coast from Wilmington, North Carolina, to Newfoundland. In 1534, Cartier arrived on the coast of Labrador and explored the Gulf of St. Lawrence. On his return from France a year later, he sailed up the St. Lawrence and founded the settlement of Montreal. In 1541, Francis I by proclamation commissioned Roberval, a Picardy nobleman, as viceroy and lieutenant-general in Canada, Newfoundland, Labrador, and neighboring lands. Cartier was appointed captain-general.

In 1564, French Huguenot immigrants were established on the St. Johns River, Florida; and in the following year the Spaniards, under Melendez, massacred this colony and wiped it out of existence.

The Dutch laid claim to American soil when Hendrick Hudson sailed up the river which bears his name and landed on Manhattan Island in 1609.

About the time of the first visit of the Dutch up the Hudson River, Champlain, the French governor at Quebec, sailed up the St. Lawrence River into the lake which bears his name. At a later date the French built a fort at Ticonderoga. As early as 1646 French Jesuits discovered Lake George and in 1730 a small settlement was founded on this lake. The French claimed the territory of New France, including Lake George and Lake Champlain, by right of discovery and exploration, and settlements under the French around these lakes were encouraged.

The English claimed the whole of North America from Labrador to Florida by virtue of its prior discovery by the Cabots in 1497 and of subsequent explorations and efforts to colonize it. After a war with France, England conquered Canada in 1760.

Founding of the American Colonies

The story of the sturdy pioneers who immigrated into the United States in early colonial times, is familiar to all their descendants. Their long suffering and their glorious struggles for the sake of freedom are historical facts. The first permanent English settlement in America, as is well known, was founded at Jamestown, Virginia, in 1607. But there had been several unsuccessful attempts previously to establish a settlement in Virginia, starting with 1584. It was during these disastrous struggles to found a colony that Virginia Dare, the first American child of English parents, was born on the 18th of August, 1587. By 1619, the colony of Virginia was firmly established and immigration increased. Between 1607 and 1622, nearly 6,000 persons including many young women were landed in Virginia. A large number of these died while others returned to England during that period. In 1624, when Virginia became a royal province, it had a population of 4,000 English and 22 Negroes. The first twenty slaves were brought from Africa in 1619 in a Dutch ship and landed at Jamestown. By 1642, the population of Virginia grew to 15,000 English and 300 Negroes.

Soon after the founding of Jamestown a practice sprang up in England of sending convicts to that colony. This practice continued until the Revolutionary War. Between 1620 and 1775, about 40,000 convicts were thus sent to Virginia.

In 1700, about 700 Huguenot immigrants led by Olivier arrived in Virginia and settled in various towns. In 1790, the town of Richmond had a population of 3,761. Norfolk was founded in 1705 and by 1776 it had a population of 6,000.

In 1620 the Pilgrims, numbering about 120 men, women, and children, after a voyage lasting 65 days, landed on the coast of Massachusetts and called the settlement Plymouth. After four years of struggle the colony, though having received additional immigrants, contained only thirty-two houses and 180 inhabitants. By 1683 the colony increased to 3,000 souls.

The Massachusetts Bay Colony was organized in 1628 and soon after new towns such as Charlestown, Boston, Roxbury, Salem, and many others sprang up around Massachusetts Bay. In 1629, three vessels arrived from England bringing sixty women and maids, twenty-six children, and three hundred men, with victuals, arms, tools, and one hundred and forty head of cattle. About two hundred of the immigrants settled at Salem and about one hundred went to Charlestown.

In 1630, eleven vessels crossed the Atlantic and arrived at New England bringing several hundred English men, women, and children who were seeking religious freedom. The whole fleet was filled with passengers of all occupations, skilled in all kinds of faculties, needful for the founding of a new colony. The greatest number came from London; Southampton was the place of embarkation. About the same time another vessel sailed from Bristol carrying about eighty passengers who arrived at Salem; while another vessel sailing from Plymouth arrived at Nantasket bringing about one hundred and forty passengers mainly from Devonshire, Dorsetshire, and Somersetshire. In all about seventeen ships bringing about fifteen hundred passengers arrived to settle within the limits of the Massachusetts Bay Colony in 1630. Salem became the largest town with Charlestown the next largest.

Some few additional immigrants arrived in 1632 and 1633. During 1635, notwithstanding the vexatious restrictions imposed by the Crown of England, three thousand immigrants arrived at the Massachusetts Bay Colony.

Fifteen years after the landing of the Pilgrims in 1620, over 20,000 persons are estimated to have arrived in New England in one hundred and ninety-eight ships.

The inhabitants divided into small municipalities, each in a measure was sovereign within itself, but subject to the control of a central power analogous to the present United States. It may seem strange that in 1635 the people in each municipality were complaining of lack of room; with the result that they began to spread into Connecticut. Here they encountered Dutch settlers who had already purchased or otherwise obtained land from the Indians.

By 1640, the population of New England had grown to 26,000 souls purely and exclusively English. So rapid was the increase in immigration and the powers assumed by the colonists were so great, that as early as 1634, the English crown began to fear that the people were aspiring to independence.

This Puritan exodus from England to America came to an end in 1640, and for the next hundred years there was hardly any immigration from that country due to the unfavorable policies of King James and King Charles. But the 26,000 inhabitants in 1640 continued to multiply with remarkable rapidity. In 1643, Massachusetts alone had a population of more than 16,000. In 1680, Boston had a population of 5,000 and Massachusetts 30,000. In 1685, 150 Huguenot families came to Massachusetts.

Convicts sent from England to America were not permitted to land in New England. In 1700, Massachusetts passed a law compelling every master of a ship arriving with passengers to prepare a list for the port authority showing the name, character, and circumstances of every passenger. And for every name omitted a fine of £5 was imposed. In 1722, the law was re-enacted and the fine raised to £100.

In 1719, one hundred and twenty families from Ireland arrived in New England.

About 1630, New Jersey and Delaware had been occupied by the Swedes. These establishments were later seized by the Dutch who had their headquarters at New Amsterdam. When Holland lost its colonies in 1664, New Jersey, Delaware, and New Amsterdam fell into the hands of the English.

Connecticut was founded in 1633 by a party of Dutch traders from New Amsterdam who constructed crude earthen-works at Hartford. In 1636, a party from Newton, Massachusetts, composed of about one hundred men, women, and children, taking with them one hundred and sixty cattle, set out for Connecticut. New Haven was established in 1638 by a body of English immigrants under Rev. John Davenport. In 1667, a party of settlers from New

Haven led by Rev. Abraham Pierson migrated to New Jersey and founded the settlement of Newark.

Providence, Rhode Island, was established in 1636 by Roger Williams, William Coddington, and other religious refugees from the Massachusetts Bay Colony. Newport was founded in 1639.

Maine was founded in 1639 when Ferdinando Gorges obtained a provincial charter from the English king, conferring upon him the title of Lord Proprietor of the Province of Maine. In 1743, the town of Brunswick was settled as a frontier outpost, one of several military outposts.

New Hampshire received its name with the grant to Capt. John Mason, November 7, 1629, and was created a royal province in 1679. About 1719-1723, a number of Scotch-Irish from northern Ireland settled in New Hampshire. After the Jacobite rebellions of 1715 and 1745 refugees arrived from Scotland. In 1730, the whole population was estimated to be 10,200 of whom 200 were Negroes. In 1740 the population increased to 14,000 including about 1,000 people who came from Ireland during the preceding ten years. Following the Revolution the population increased rapidly; at the beginning of the nineteenth century New Hampshire had a population of 184,000, and at the close of the century it had 412,000. However, the increase was checked by a constant stream of emigration to the new lands of New York, Ohio, and the west.

The first permanent settlement in Vermont was in 1724 when a colony from Massachusetts Bay erected a block house at Brattleboro on the Connecticut River and named it Fort Dummer. Owing to the comparatively small immigration, settlements did not extend very rapidly. Attention as to settlements was first aroused between 1744 and 1750 and inhabitants from Massachusetts and New Hampshire went over to Vermont. In 1760, soon after the conquest of Canada had been completed, a number of inhabitants from Connecticut founded the township of Andover. From then on settlements continued to be made rapidly.

The earliest settlement in Maryland was made on Kent Island in Chesapeake Bay, in 1631, by Captain William Clayborne with emigrants from Virginia. In the winter

of 1633-1634, Leonard Calvert, brother of the second Lord Baltimore, set out from England in two vessels with over 300 immigrants. In March, 1634, they reached Chesapeake Bay and founded the town of Saint Mary on the Potomac. The colony quickly prospered and by 1635 it had grown to a community of 2,000 inhabitants. In 1649, by an act of the assembly, Maryland was opened to all persons of whatever belief or persuasion. In 1673, Augustine Herman, a native of Prague, Bohemia, who came to America in 1647 and accumulated considerable wealth, received letters of naturalization from Lord Baltimore, making him the first naturalized citizen in America. Baltimore was founded in 1729. By 1770 it had a population of 20,000.

In 1682, William Penn, an English Quaker, and the son of an English admiral, came to America and founded the colony of Pennsylvania. Between 1688 and 1693 large numbers of German immigrants arrived and settled in New York State and western Pennsylvania. By the middle of the eighteenth century Pennsylvania was third in population and importance. Immigration to Pennsylvania consisted of Lutherans, Reformed Germans, Mennonites, Dunkards, and Moravians. A German newspaper was founded in 1739 and also in 1743.

The English colony under Penn began to fear this strong alien influx and efforts were made to check the tide of this kind of immigration. In 1727, six boatloads of Scotch-Irish landed in Philadelphia. In 1776, the city had a population of 35,000.

The history of the Carolinas began in 1663 when Charles II granted a charter to several loyal friends who made great efforts to encourage immigration by offering to colonists generous land grants. Charleston, South Carolina, was founded by William Sayle in 1670 and settled by French Huguenots and Scotch. By 1680, it had a population of 2,500. In 1776, its population was 15,000 and ranked the fifth largest city in the United States. In 1760, South Carolina had a population of 150,000, including about 111,000 slaves. As a colony it was chiefly favored by the Huguenot, Swiss, and German immigrants.

North and South Carolina were divided in 1729 and be-

came royal provinces in 1731. In 1745, large numbers of Scotch and Scotch-Irish immigrants came to North Carolina. These Scotch-Irish contributed a very great share to the founding and progress of the United States. In 1760, there were 200,000 inhabitants in North Carolina including about 50,000 slaves.

The first settlement on Manhattan Island was made by a group of Dutch traders who arrived in four Dutch vessels during the winter of 1613-1614. They landed at the southern point of the island and built a few huts.

In 1623, a number of persons called Walloons of French blood resident in Holland, after a voyage of two months arrived at the mouth of the Hudson. They proceeded up the river and founded a settlement that was the beginnning of Albany. In 1625, the population of the whole of New Netherlands was two hundred souls. In 1626, Peter Minuet purchased Manhattan Island from the Indians for trinkets amounting to twenty-four dollars. Fort Amsterdam was then built on the southern point of the island which became the original Battery. Manhattan became the chief settlement of New Netherlands and the seat of government. Peter Stuyvesant and his party arrived in 1647 and assumed control of Fort Amsterdam for the Dutch West India Company.

English settlers from Connecticut drifted down and settled on Long Island. Friction soon arose between these English and Dutch settlers.

In 1664, war vessels under the command of Colonel Richard Nicolls were sent from England by the Duke of York to enforce the claims of the English. Long Island and Manhattan capitulated when the Dutch surrendered to Nicolls. In that year Peter Stuyvesant estimated the population of New Amsterdam about ten thousand inhabitants and four hundred houses. Following the English occupation, New Amsterdam was officially named New York and Nicolls became governor of all of what was formerly included in New Netherlands.

In 1673, the Dutch with a large fleet of war vessels recaptured New Netherlands, by open assault in time of war. However, in the following year, Holland, by a treaty, sur-

rendered New Netherlands to the King of Great Britain, and New York was finally transferred to British authority. The population was already varied; among the inhabitants besides the English and Dutch were persons from France, Prussia, Germany, Switzerland, Norway, Denmark, and Bohemia. But the dominant influence was Dutch.

Population was slowly increasing. In 1720, the province extending as far as Albany had a population of 27,000 whites and 4,000 negroes. In that year about 3,000 Germans from the Palatinate arrived on the banks of the Hudson, but only 357 remained in New York City, the others going inland and further up the Hudson. In 1776, New York City had a population of 25,000 while the entire state had about 235,000. In 1790, the State of New York grew to 340,120; in 1800, the population was 589,051 and in 1810 it had 959,049, being second to Virginia. Since 1820, New York has held first rank as to population and commerce.

Georgia was founded in 1732 and was the last colony established by the crown in North America. In 1733, Oglethorpe founded the town of Savannah with a party of 120 persons. The following year a shipload of Germans arrived and founded a settlement which they called Ebenezer. Soon after the town of Augusta was founded. In 1752, Georgia became a royal province. In 1770, Georgia had a population of 50,000 including about 25,000 slaves.

The English settlements in America consisted of agricultural colonies. By 1760, the population of the English colonies on the North American continent was about 1,500,000; containing a large influx of Europeans other than English. The new immigrants were mostly Scotch-Irish, Germans, and some Swiss. Between 1714 and 1720, fifty-four vessels brought Scotch-Irish immigrants to Boston; and in 1718 large numbers of Scotch-Irish came to New York and settled in the central part of the state.

In 1770, one third of the population of Pennsylvania was Scotch-Irish. In 1773 and 1774 more than 30,000 Scotch-Irish immigrated to America. At the time of the revolution the Scotch-Irish constituted one-sixth of the total population of the United States. They contributed a great share

to the success of the revolution and founding of the United States.

United States Immigration

Immigration to America was at first caused by the general depression and religious fanaticism in Europe. However after the first momentum had been given, the immigrants were attracted to the New World by virtue of its manifold advantages.

Following the close of the revolution in 1783, land was taken up by the new immigrants as they liked. Never before in modern history have people been offered such freedom, such advantages, and such reward for their enterprise. Their wonderful dispersion within a brief period over wide tracts was remarkable; how speedily they scattered and receded farther and farther from the coast into the virgin interiors was indeed marvelous.

In population, between 1650 and 1700, the colonies increased from about 100,000 to 250,000; and from 1700 to 1750, the population grew to 1,370,000. At that time the stream of Negro slaves was flowing in at the rate of 10,000 per year almost entirely into the southern colonies.

During the years 1650 to 1750 the towns of Boston, Philadelphia, and New York acquired prime importance. In 1790, the former English colonies, now the Thirteen United States of America, had a population of 3,929,214, including about 670,000 negro slaves.

Following the close of the war of 1812, the new republic gave clear evidence of a growing nation. The introduction of the steamboat as well as the building of canals and turnpikes, revolutionized transportation. But the greatest factor in the development of the country was the steam railroad. The railroads were the means of letting loose a flood of settlers from the older sections to the virgin lands of the West and Far West. Hamlets immediately arose as the forests fell before the blows of the pioneers. The fertile fields of the plains were soon swarmed by the advancing immigrants from the southern and New England States who traveled overland in canvas-covered wagons, on horse-

back, and on foot; there was a constant movement from east to west.

Frequently one member of a family who had gone West wrote alluring letters to his family and friends in the East or South, telling of the wonderful opportunities. The government sold the land to the settlers for about two dollers per acre. This cheap land and the urging letters tended to arouse the desire of those in the East and South to follow West.

Land speculators who acquired by various means large tracts of land, broadcasted throughout the East and South circulars that were alluring to many. The transportation companies were also actively engaged in a campaign to carry people westward.

The more venturesome in the East and South sought the fertile farming lands of the West. Some were attracted by ideals of freedom and economic independence on a farm, while others migrated West for purely speculative purposes.

As early as 1846, two bodies of immigrants crossed the plains of the middle west, one to California and the other to the Oregon Territory. In 1848, gold was discovered in California and a great rush was started for the Pacific Coast. By 1850, there were over 125,000 men, women, and children in California. The news of the discovery of gold reached China in 1848; in the following year fifty-four Chinamen and one woman reached California. And now the foreign ship companies saw a great opportunity for passenger traffic. Circulars, pamphlets, and other means of advertisement were brought into China to lure the Chinese. By 1852, over 20,000 Chinese immigrants were brought to California.

In the East, South and Middle West, hardy settlers, traders, and trappers, fascinated by the accounts of fabulous reaches of forest and boundless prairies, of mighty streams and fertile valleys, began a movement such as no previous civilization ever witnessed; and with the augumentation of immigration from Europe, there arose towns and industrial communities across the continent as far as the Pacific coast.

Prior to 1880 there was no serious problem of immigration. The immigrants were mainly Irish, German, and Scandinavian; somewhat akin to the original stock in race and culture. These soon adapted themselves to their new environments and were quickly assimilated into the American population. By 1890, the real immigration problem in the United States arose. The large numbers of immigrants coming to our shores were landed in the large cities and most of them remained there huddled together with those who had preceded them within a decade before from the same countries, seeking and finding employment with the people of their own nationality.

By 1896, the problem of immigration became grave, as a result from the shift in the source of the stream of immigrants from the north and west of Europe to the south and east, bringing immigrants who were of an entirely different race, culture, and language, which prevented their rapid assimilation. The millions of immigrants who entered the United States during the past score of years had no desire to scatter themselves over the great areas of land offered for their occupation or through the small communities of the West. They remained in the already overcrowded and congested centers of population thereby creating a superabundance of cheap labor and other attending economic ills.

"There has never been in the history of all mankind a movement of peoples of the magnitude of the tide of immigration which has come to the United States during the last century and a half. During some years we have received more aliens than have all other countries combined." Since 1820, or in a little over a century, we have received approximately 35,000,000 immigrants, who have come from all parts of the globe. Nearly 10,000,000 of these arrived between 1907 and 1922.

During the Colonial times, 1600-1750, migrations to America were due to different causes, and were for different purposes than those that followed that period. Migrations previous to 1750 were due principally to the spirit of conquest by foremost European nations, and to the visions of wealth and independence portrayed by agents of colonies who returned to Europe with reports, some true and others

misleading; and some few migrated to escape religious persecution. Such migrations were not individual, but in companies or groups, and were undertaken and encouraged by the European state or government for the purpose of conquest by colonization and commerce.

Following the close of the Revolutionary War, and up to the year 1798, there was no Federal legislation on immigration or for resident aliens. In 1798, an Alien Law was passed providing for the registration of all white aliens, and from 1798 to 1819 no further legislation was enacted touching upon immigration or resident aliens.

In 1820, the total number of immigrants was 8,385. From then on, the yearly totals increased until the year 1882, when the total of 788,992 immigrants were admitted. From 1883, the totals decreased until they reached a low ebb of 229,299 in the year 1898. From 1899, the totals jumped to 812,870, reached in the year 1904.

The year 1905 marked a turning point. In that year 1,026,499 immigrants were admitted. From 1905 to 1914 inclusive, an average of more than 1,000,000 immigrants were admitted during each year. The peak was reached in 1914, when 1,218,480 immigrants were admitted.

The following year, 1915, showed a marked decrease due to the outbreak of the World War; only 326,700 gained admission. From then on the totals gradually decreased until the year 1918, when only 110,618 were permitted to enter. In 1919, the total number admitted was 141,132. However, in 1920, the total jumped to 430,001. The year 1921 showed an alarming increase when 805,228 immigrants were admitted. Millions in the Old World were at this time on their way to America or preparing to go there. Our immigration officials were looking forward to a great deluge of immigration coming to our shores at the rate of 2,000,000 or more per year.

In 1922, only 309,556 were permitted to enter. During 1923 a total of 522,919 were admitted. The total number of aliens admitted in 1924 up to the end of June was 879,302. From July 1, 1924, when the Immigration Act of 1924 became operative until June 30, 1925, 458,435 aliens, repre-

senting many races, came to the United States. From July 1, 1925, to June 30, 1926, 496,106 were admitted.

From 1820 until 1874 the countries of Belgium, Denmark, France, German Empire, Netherlands, Norway, Sweden, Switzerland, and United Kingdom, contributed about 90 per cent of the immigrants.

These countries comprised northern and western Europe. From 1874 on the countries of southern and eastern Europe, comprising Austria-Hungary, Bulgaria, Serbia, Montenegro, Greece, Italy, Poland, Portugal, Roumania, Russian Empire, Spain, and Turkey gradually increased their percentages until 1896, when they passed the countries of northern and western Europe, and remained in the lead ever since. In that year 40 per cent were from the north and west and 57 per cent were from the south and east of Europe. The balance were from other parts of the globe. The countries from the south and east of Europe reached their highest percentage in the year 1907, when 76.2 were admitted; while only 17.7 came from the north and west of Europe, and the balance from other parts of the world.

It will be noticed that in 1896 southern and eastern Europe furnished more immigrants than northern and western Europe; 195,684 came in that year from southern and eastern Europe, and only 137,522 from northern and western Europe. Each year, from 1896 until 1923, southern and eastern Europe produced more immigration than northern and western Europe. The World War reduced immigration from Europe to small numbers, less than 25,000 coming in during the year 1919.

In 1923, the first per cent limit act or Quota Law became effective. Then followed the more restrictive Quota Law, the "Immigration Act of 1924."

What were the economic forces that caused the flood of immigration to come flowing in such great volume from European countries during the last century? Perhaps the best exposition of the causes underlying this amazing tide of immigration is presented in a report submitted in 1913 by W. W. Husband, then immigration inspector, recently Commissioner General of Immigration, and now assistant Secretary of Labor, based on an investigation made by him

when he visited certain eastern European countries and Turkey during the last six months of the year 1913.

The following are extracts from that report:

"Immigration from the sources under consideration (from Eastern Europe and Asiatic Turkey) is for the most part due to the fact that the demand for labor is much greater and the wages paid far higher in the United States than in the countries from which the immigrants come. Avoidance of the military service, a desire for adventure, dissatisfaction with political and social conditions, alleged discrimination on account of race or religion, and various other causes are also operative; but all of these combined are of little importance when compared with the simple economic inducement referred to.

"The chief secondary or immediate causes are the advice—and often the financial assistance—of previous immigrants, and the activity of steamship ticket agents and brokers and the so-called runners who serve them. Opinions differ as to the relative importance of the two causes named, but the question is a difficult one to determine for the reason that the work of agents is so largely supplementary in character. In other words, the desire and purpose to emigrate is for the most part due to encouraging letters from friends in the United States, or the evidences of prosperity exhibited by those who have returned to the homeland, while the agents' function is largely to convince potential emigrants that going away is possible, and to assist and direct them in so doing.

"As a matter of fact, it is doubtful whether steamship ticket agents, however active and persuasive, could promote anything like the present volume of emigration from Eastern Europe, were it not that an intense spirit of emigration has been created and kept alive by the encouraging reports of those who have sought their fortunes in the New World. Nevertheless, it is certain that such agents are so important a factor at least in a contributory sense, that their elimination would result in a greatly reduced emigration while their better control along lines contemplated by the United States Law, as well as by the emigra-

tion laws of most European countries, would have the same effect, only in a lesser degree.

"The theory of the United States Law is that transportation companies shall not attempt to promote immigration, but that they may strive for a share of the natural flow by advertising dates of sailing, facilities for travel, etc.; and this is also essentially the theory of existing European laws upon the subject. Nevertheless, high officials in Russia expressed the opinion that more than one-half of the emigration from that country is due to the activity of steamship ticket agents, while a competent authority in Hungary estimated that 50,000 immigrants left that country in 1913 as a result of such propaganda. Further evidence in this regard is the claim of Government officials that the suppression of ticket agents in Bulgaria has reduced emigration from that country to a minimum—a claim that seems to be substantiated by our statistical records.

"In one sense, the above statements probably are not unreasonable, for it must be remembered that the agent is a natural facility to emigration and the elimination of that facility of course, would greatly reduce the movement. It is problematical what the effect would be if such agents could be compelled to abandon the practice of agitating emigration and to confine themselves solely to facilitating the going of those who have been otherwise induced, but it is very doubtful whether the reduction in emigration would even approximate the results suggested relative to Russia and Hungary. Nevertheless, agents as a whole, are an important factor in promoting immigration to the United States, while the system they have inaugurated in most of the countries is in many cases exceedingly detrimental to the welfare of the immigrant.

"Character and Methods of Steamship Ticket Agents

"In the eyes of the law, most, if not all, eastern European countries, there are two general classes of steamship ticket agents—legal and illegal.

"Legal agents as a rule, are those who represent transportation concerns which are authorized to conduct an emi-

gration business in such countries and who usually operate under Government regulations, strictly forbidding the solicitation of emigration and particularly of emigration that is not in compliance with law. In some countries, also, there are authorized emigration concerns which do not directly represent any specific transportation company or companies, but, in the main, the so-called legal agents serve some particular steamship line. When they comply with the laws of the countries in which they operate, these legal agents also comply to a gratifying degree with the United States Law.

"The greater part of the immigration business in such countries is done by illegal, secret, contraband agents, as they are variously called.

"So far as could be learned, this class of agents, as a rule, does not directly represent any particular steamship company, but rather deal with general agents of such companies or semi-independent concerns which are more or less closely allied to some particular line or group of lines.

"Secret agents, and also legal agents, as a rule do not sell actual tickets, but merely furnish orders for transportation for which they accept deposits, the purchase of a ticket usually being completed at ports of embarkation. In many cases the so-called agents are merely brokers who round up emigrants and turn them over to the representative of some line or semi-independent agency just outside the borders of the country where they are recruited, or in some cases to legal agents at home.

"Still further down the list are the runners who go about the villages and direct their patrons—or victims, as the case may be—to some legal agent or illegal broker for a small commission per head.

"This condition of affairs affords a wide and fertile field for the secret ticket agents or brokers as well as for those who make a business of piloting this illegal emigration out of the country. It is easy to see how a movement of this nature opens the way for wholesale exploitation of the emigrants. Their fear of detection by frontier guards and their ignorance of the country traversed tend to place

them at the mercy of their guides, who, it is generally claimed, exploit them at every turn.

"The system exists primarily to contravene the laws of emigrant-furnishing countries, and from the standpoint of such laws, a considerable part of the business so handled is illegal and therefore is looked upon as abnormal. But the worst feature of the situation, from a humanitarian point of view, is the opportunities the system affords for the exploitation of helpless emigrants."

From the above report, we gather that the main incentive to immigrate to the United States is the greater demand for labor and the much higher wages paid in the United States than in the countries whence the immigrants come.

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